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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

**JOINT STATEMENT ON THE BELLWETHER
SELECTION PROCESS**

This Document Relates to:

ALL ACTIONS

Judge: Hon. Charles R. Breyer
Courtroom: Courtroom 6 – 17th Floor

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JOINT STATEMENT ON THE BELLWETHER SELECTION PROCESS

Pursuant to the Court’s oral ruling at the November 6, 2024 Case Management Conference (“CMC”), Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (“Uber”) and Plaintiffs’ Co-Lead Counsel, respectfully submit this joint submission on the bellwether selection process.

I. PLAINTIFFS’ POSITION

Plaintiffs’ proposal is the only one that aligns with the Court’s intention to get to trial in 2025. To summarize, the parties will select 10 Plaintiffs from a pool of cases that: (1) this Court can try; and (2) where fact sheets have been exchanged. Each side can strike up to four cases for any reason, including unwillingness to participate as a bellwether plaintiff or outlier facts. The remaining 12 Plaintiffs will amend their complaints and the parties will advocate which cases should advance first, and then case-specific discovery will proceed in waves, leading up to the first trial in December 2025. This process is straightforward, efficient, and capitalizes on the effective case management procedures already in place.

By contrast, Uber’s proposal misses the mark and is covered in red tape. It imposes layers of unnecessary and counterproductive process with no practical way to get to trial in 2025, including a random selection of 50 cases for additional discovery and amendment before any trial selections are made. Among those, Uber insists, should be cases where it maintains *Lexecon* rights. Whatever concerns Uber has about representativeness and attrition, its proposals frustrate, rather than address.

Plaintiffs’ respectfully request the Court adopt their proposed process and schedule as set out below.

Bellwether selection pool. The bellwether selection pool should consist of cases that either are filed in the Northern District of California originally, or indicated in their short form or amended short form complaint that they would have filed in the Northern District of California in the absence of direct filing, as of January 31, 2025. The pool should be limited to cases where a PFS and DFS have been exchanged, also as of January 31, 2025.

1 Uber proposes virtually no limitation on bellwether eligibility for the initial pool, including
2 *Lexecon* cases. As the Court has recognized, some narrowing of the initial selection pool makes
3 sense. *See* 11/6/24 Hearing Tr. at 21:24-21:24 (suggesting *Lexecon* cases should not be included).
4 Limiting the initial batch of trials to the cases that this Court can oversee is the best way to keep
5 this litigation moving apace, eliminating unhelpful variables and the risk of conflicting rulings.
6 Given the relatively small number of cases that have *Lexecon* issues, it doesn't make sense to let
7 the tail wag the dog and consume the parties' and Court's resources now on working up cases with
8 no guarantee for prompt trial settings elsewhere.

9 Additionally, Uber's approach — random selection from all cases regardless of whether a
10 PFS or DFS has been submitted — undermines the Court's and the parties' ability to tailor the
11 selections to meet the goals for this litigation. This pool would be both over- and under- inclusive,
12 since it would include cases about which the parties have very little information and would also
13 needlessly narrow the pool from which both sides can advocate for the trial cases. By design, the
14 PFS and DFS provide ample and sufficient information for the parties to make their selections,
15 and choosing among those cases with PFS and DFS exchanged by January 31 avoids a second step
16 in the process that would merely cause delay. Indeed, Uber does nothing more than pretend this
17 process would allow for a trial in 2025.

18 Bellwether proposals. On February 14, 2025, the parties should exchange memoranda
19 identifying and advocating for 10 cases per side from the bellwether selection pool. On February
20 19, 2025, the parties may strike up to 4 cases selected by the opposing side. By February 28, 2025,
21 the parties should submit to the Court a stipulation and proposed order with the final list of 12
22 bellwether cases: six (6) selected by Plaintiffs, and six (6) selected by Uber. The Court should set
23 a March 14, 2025 deadline for the bellwether plaintiffs to file amended complaints in accordance
24 with any Orders on Uber's motions to dismiss that the Court has issued as of that time, including
25 to incorporate case-specific allegations.

26 Uber's proposal to randomly narrow the pool to 50 before narrowing again is
27 counterproductive. Not only will it cause unnecessary delay, but it also will detract from Uber and
28 Plaintiffs' goals in prioritizing cases with key variables that will advance resolution. For example,

1 if Uber wants to ensure a range of injuries in the bellwether trial wave, why artificially narrow
 2 what the parties can choose from? Or if the Court or parties view the incident timing as an
 3 important organizing tool, why not have the full range of incidents to select from? *See* 11/6/24
 4 Hearing Tr. at 18:3-21. Imposing a randomization funnel robs both sides of their flexibility and
 5 freedom to select appropriate cases, and needlessly constricts Plaintiffs, who carry the burden of
 6 proof. Other MDL courts have determined that random selection frustrates rather than advances
 7 the goals of ensuring major variables are represented. *See, e.g., In re Yasmin & Yaz (Drospirenone)*
 8 *Marketing, Sales Practices & Prods. Liab. Litig.*, MDL No. 2100, No. 09-MD-02100, 2010 WL
 9 4024778, at *2 (S.D. Ill. Oct. 13, 2010) (“Most modern plans seem to disfavor random selection
 10 in order to have better control over the representative characteristics of the cases selected. . . . The
 11 Court finds that the process that will provide the best sampling of cases will be one that allows
 12 both sides of this litigation to have a role in selecting cases.”); *see also* Fallon, *supra* at 2348 (“If
 13 cases are selected at random, there is no guarantee that the cases selected to fill the trial-selection
 14 pool will adequately represent the major variables.”); *see also In re General Motors LLC Ignition*
 15 *Switch Litig.*, 14-md-02543, Order No. 25 (S.D.N.Y. Nov. 19, 2014) (Dkt. 422) (**Ex. A**); *see also*
 16 *In re: Testosterone Replacement Therapy Prod. Liab.* (MDL 2545) (**Ex. B**) (Tr. of 11/30/2017
 17 case management conference) (Judge Kennelly recognized: “Random doesn’t mean
 18 representative. Random means random. Coin can come up heads six times in a row. That’s random.
 19 It’s not representative.”).

20 Further, random selection ensures rather than protects against attrition. Choosing many
 21 cases randomly — and therefore without the benefit of Plaintiffs’ counsel involvement — will
 22 undoubtedly lead to some cases dropping out. That is the nature of any bellwether selection process
 23 and particularly so in a high profile case involving sexual assault, where serving as the tip of the
 24 spear would be uniquely public and emotionally taxing. Plaintiffs’ proposal is superior, because
 25 after the parties select 10 cases each, Plaintiffs’ counsel can investigate whether Uber’s picks are
 26 willing to proceed, and if not, can strike those cases from the pool. If more than four cases are
 27 unwilling to proceed, the parties can address this with a streamlined replacement process.

Bellwether pretrial schedules. To meet the Court's goal of trying a case in 2025, case-specific pleading, discovery, and motion practice should be conducted in waves, such that the parties are only engaged in expansive case-specific discovery for up to four cases at any given time. A wave process will also mitigate the risk of discovery going stale and minimize the need for supplemental depositions (of fact witnesses, including treaters, or the Plaintiff) closer to the time that a particular case is tried. This is particularly important in this litigation given the particularized and heightened risk of re-trauma for survivors in undergoing serial depositions.

Further, to maximize efficiency and elicit as much data from each trial as possible, the end goal for this process should be three or four trial settings for multi-plaintiff trials, as discussed in more detail below.

On April 1, 2025, the parties should file letter briefs, not to exceed 5 pages, with their positions as to which cases should be assigned to which wave, detailing why certain cases should be grouped together (e.g. date of incident, similar state laws on common carrier liability, or other criteria to streamline the trial and limit the risk of confusion). On April 15, 2025, discovery for Wave 1 bellwether plaintiffs should commence.

To illustrate, below is a proposed pretrial schedule:

PROPOSAL	Deadline (non-case specific)	Deadline (BW Trial Pool only, i.e. 12 cases)	Deadline (Wave 1 only, i.e. 4 cases)
Parties to submit joint or competing proposals to select Trial Pool Selection		12/4/2024	
<i>Initial Bellwether Selection Pool Closes</i> —to be included in the bellwether selection pool, complaint must designate ND CA as venue & PFS and DFS exchanged.	1/31/2025		
<i>Parties' identification of proposed BW Trial Pool</i> (contemplate 10 per side, strike up to 4 each)		2/14/2025	
<i>Parties' simultaneous strikes</i>		2/19/2025	

1	<i>Selection of Bellwether Trial Pool:</i>		2/28/2025	
2	Parties select 12 (6+6)			
3	<i>Deadline to Amend Complaint or Add</i>		3/14/2025	
4	<i>Parties:</i> BW Trial Pool This is to address MTD rulings up to this date			
5	<i>Selection of Plaintiffs assigned to each</i>		4/1/2025	
6	<i>wave:</i> the parties should file letter briefs with their positions as to which cases should be assigned to which wave			
7				
8	<i>Wave I Discovery opens:</i> immediately following Court Ruling on above letter briefs assigning waves (<i>contemplated no later than 4/15/25</i>).			4/15/2025
9				
10	Rule 12 Motion (Bellwether Trial Pool) due.		4/15/2025	
11				
12	Rule 12 Motion Oppositions (Bellwether Trial Pool) due.		5/15/2025	
13				
14	Rule 12 Motion Reply (Bellwether Trial Pool) due.		6/2/2025	
15				
16	Substantial Completion of case specific discovery (Wave I only)			6/16/2025
17	Substantial Completion of party fact and third-party discovery	7/15/2025		
18				
19	Expert Reports Due (simultaneous exchange)	08/01/2025		
20	Case-specific Expert Reports Due (Wave I only) - simultaneous exchange.			8/8/2025
21				
22	Rebuttal Expert Reports Due (simultaneous exchange)	9/1/2025		
23	Case-specific Rebuttal Expert Reports Due (Wave I only) -simultaneous exchange.			9/8/2025
24				
25	Expert Depositions completed by and close of discovery.	09/15/2025		
26				
27	Case Specific Expert Depositions (Wave I only) completed by and close of discovery			9/22/2025
28				

1	<i>Daubert</i> and Dispositive Motions (to be filed no later than)	10/1/2025		
2				
3	Wave I Case Specific <i>Daubert</i> and Dispositive Motions (to be filed no later than)			10/08/2025
4				
5	Response to <i>Daubert</i> and Dispositive Motions	11/3/2025		
6				
7	Response to Wave I Case Specific <i>Daubert</i> and Dispositive Motions			11/10/2025
8				
9	Reply to <i>Daubert</i> and Dispositive Motions	11/17/2025		
10				
11	Reply to Wave I Case Specific <i>Daubert</i> and Dispositive Motions			11/24/2025
12				
13	<i>Wave I Trial: Final pretrial conferences and hearing on motions in limine</i>			12/01/2025
14				
15	Wave I Trial			12/08/2025

Uber’s proposal contains an additional step wherein 50 cases are randomly chosen from the bellwether selection pool and required to undergo some largely unspecified “targeted discovery.” This is essentially a repackaging of Uber’s oft-repeated (and oft-rejected) request for the Court to open plaintiff discovery wholesale. This procedure is unnecessary given the extensive information and document production the parties are exchanging through the PFSes and DFSes (including whether a Plaintiff is seeking lost wages). Uber’s claim that it requires more information from plaintiffs before selecting bellwethers rings hollow given that, to date, Uber has not ordered any medical records despite being permitted to do so through the PFS. This also undercuts Uber’s argument that any process other than random selection is inherently unfair to Uber because of an information disadvantage. A more productive path would be for the parties to focus on resolving PFS and DFS deficiencies so that both sides have the complete information contemplated under PTO 10.

More importantly, collecting social media files, employment records, and other communications from such a large number of plaintiffs as a predicate to moving forward with trial selections will only cause delay, making it impossible to satisfy the Court’s goal of beginning trials

1 in 2025. Under Uber’s plan, the parties would be engaged in case-specific discovery without a
2 bellwether list until some unspecified date in Fall 2025. Uber’s proposed trial date is totally out of
3 sync with its schedule. The Court’s initial inclination to comprise a bellwether list in the ballpark
4 of 20 cases, 11/6/24 Hearing Tr. at 16:15-22, is more reasonable given the timeframe.

5 For the same reasons that it made little sense to require amendment of 1500 complaints to
6 add case-specific allegations, it is similarly unhelpful to require amendment of up to 50. *See* ECF
7 No. 1823 at 8-9 (detailing Plaintiffs’ argument against mass individual amendments, including that
8 plaintiffs would rely on Rule 15 to amend again once common discovery is complete). Also, Uber
9 does not plan to move to dismiss 50 cases at once, so there is no clear purpose to this exercise.
10 Further, while Uber contends it needs to know what claims each case will plead (i.e. fraud,
11 ratification, product liability), it concedes it need not have a ruling on any motions regarding those
12 claims before it can make trial selections, and the scope of case-specific discovery likely will not
13 change much because of the overlap with claims that are already pled. Regardless, Plaintiffs’
14 leadership is willing to share information with Uber in advance of bellwether selection regarding
15 the nature and extent of anticipated amendments to pursue these claims among the bellwether
16 selection pool.

17 Uber’s proposed schedule, again, front loads motions to transfer. The Court has already
18 declined to advance such motions, and has noted that the parties should let *forum non conveniens*
19 motions dictate selections. *See* 11/6/24 H’rg Tr. at 23:18-20 (“*I don’t think you ought to go through*
20 *the selective process based upon the assumption that a forum non conveniens motion will be*
21 *granted.*”).

22 Multi-plaintiff trials. The same common questions of fact that supported consolidated
23 pretrial proceedings—Uber’s conduct and knowledge regarding sexual assault on its platform—
24 support consolidated bellwether trials. Evidence relating to Uber’s liability will involve the same
25 Uber witnesses and Plaintiffs’ experts. There will also be overlap in damages evidence, as
26 Plaintiffs intend to put on experts to teach the jury about the nature of sexual assault and its short
27 and long-term effects. Setting multiple cases at once is also practical and addresses Uber’s concern
28 about attrition: if one or more cases resolves for any reason before trial, the parties and the Court

1 can maintain the trial date and conserve resources. Thus, consistent with the purpose of this MDL,
 2 consolidated trials would “promote the just and efficient conduct of such actions.” 28 U.S.C. §
 3 1407(a).

4 Other courts overseeing rideshare sexual assault proceedings have elected to utilize multi-
 5 plaintiff trials. *See, e.g. Ex. C* (setting joint trial of three plaintiffs in Lyft JCCP for April 28,
 6 2025); *Exs. D, E, F* (setting three related Lyft cases for trial on April 13, 2026). Under Uber’s
 7 proposal, there is no safeguard against the risk that the parties and the Court spend months working
 8 up a single case, with the Court reserving precious time on its calendar, only for the trial to be
 9 vacated shortly before due to settlement, dismissal, or other circumstance unique to that plaintiff.
 10 Indeed, after setting individual cases in the Uber JCCP, Judge Schulman commented at a recent
 11 hearing that perhaps consolidation is the best way to ensure that trials move forward, even if one
 12 or more cases resolve before the trial date. *Ex. G*.

13 Uber’s objection to multi-plaintiff trials ignores the reality that such a procedure is common
 14 MDL practice. *See* 9A Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure*, §
 15 2384 (3d ed. 1998) (collecting cases and noting that consolidation is “frequently” ordered in MDLs
 16 and cases involving “a common product”). Federal Rule of Civil Procedure 42 permits
 17 consolidation for trial of actions involving a common question of law or fact. Fed. R. Civ. P.
 18 42(a)(1). The decision to consolidate is “within the broad discretion of the district court.” *In re*
 19 *Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987). In determining whether consolidation is
 20 appropriate, the court “weighs the saving of time and effort consolidation would produce against
 21 any inconvenience, delay, or expense that it would cause.” *Huene v. United States*, 743 F.2d 703,
 22 704 (9th Cir. 1984). Any risk of confusion resulting from consolidation can be mitigated through
 23 jury instructions and trial management. *See Baron v. Galactic Co., LLC*, 2023 WL 8358368, at *3
 24 (E.D. Cal. Dec. 1, 2023). For these reasons, district courts are “urged to make good use of Rule
 25 42(a) in order to expedite the trial and eliminate unnecessary repetition.” *Eghnayem v. Bos. Sci.*
 26 *Corp.*, 873 F.3d 1304, 1314 (11th Cir. 2017); *see also Campbell v. Bos. Sci. Corp.*, 882 F.3d 70,
 27 76 (4th Cir. 2018) (stating that the “substantial savings of time and money that consolidation
 28 offers” is a boon to “both plaintiffs and defendants,” as well as the judiciary and the jury); *Blount*

1 *v. Boston Scientific Corporation*, 2019 WL 3943872, *2 (E.D. Cal. Aug. 21, 2019) (“Typically,
2 consolidation is a favored procedure.”).

3 Finally, should the Court have doubts about ordering consolidation now, Plaintiffs request
4 the opportunity to brief the issue at a later stage. When submitting their bellwether proposals,
5 Plaintiffs could move to consolidate some but not all cases, depending on their commonalities.
6 *See, e.g., In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Prods. Liab. Litig.*, 2016 WL
7 10719395, at *1-2 (N.D. Tex. Jan. 8, 2016) (consolidating for trial five of ten cases initially
8 selected as bellwether cases); *In re 3M Combat Arms Earplug Prods. Liab. Litig.*, 2021 WL
9 773018, at *2 (N.D. Fla. Jan. 5, 2021) (consolidating three of five cases for trial and trying
10 remaining two individually).

11 **II. DEFENDANTS’ POSITION**

12 Uber proposes that the initial bellwether pool should comprise 50 cases - - about 3% of the
13 total universe of MDL cases - - to be identified through random selection by January 2025. The
14 parties would then use the period between January and June to engage in limited discovery for
15 cases in the initial bellwether pool. This additional, focused exchange of information, as well as
16 any amendments of those 50 Plaintiffs’ short form complaints, would allow the parties to provide
17 the Court with their tentative bellwether lists of 10 cases each by June 1, 2025. At that time, the
18 parties would begin full discovery, including depositions, and prepare to provide the Court with
19 proposed trial rankings of the tentative bellwether cases by Summer to Fall 2025. The Court would
20 then set the trial order, with the first bellwether trial to commence in December 2025. Although
21 the Court need not decide the issue now, Uber rejects Plaintiffs’ suggestion that multi-plaintiff
22 trials are appropriate as premature, prejudicial, and at odds with the goals of bellwether trials.

23 The following outlines Uber’s proposal for an efficient and fair bellwether selection
24 process.

25 **A. Bellwether Eligibility**

26 Plaintiffs contemplate several eligibility criteria for the initial bellwether pool involving
27 the application of *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998),
28 the status of fact sheet submissions, and the application of the Court’s rulings on Uber’s motions

to dismiss. For the reasons that follow, none of these criteria are necessary or appropriate for selecting the initial bellwether pool. Rather, the initial pool should be selected from all 1459 cases coordinated in this proceeding.

Lexecon. Plaintiffs take the position that *Lexecon* waivers would be necessary for certain cases to proceed as bellwether trial cases. At the November 6, 2024 Case Management Conference, the Court expressed skepticism that any cases implicating *Lexecon* issues should be included in the mix of bellwether cases. *See* Nov. 6, 2024 CMC Tr. at 21:24–21:25 (“I don’t think you would include any [*Lexecon* cases] in the bellwether.”). Uber respectfully submits, however, that including these “*Lexecon* cases” would promote the goals of bellwether trials and would provide the parties with useful data for reaching broad resolution of all these cases, if possible.

The cases in this proceeding can be divided into four categories: (1) *Lexecon* cases that were filed in other districts and subsequently transferred to this proceeding by the JPML (27 cases); (2) *Lexecon*-transfer cases that were directly filed in this district and are accompanied by short form complaints that designate other forums as the forums where the cases would have been brought but not for the direct filing procedure (436 cases); (3) other transfer cases alleging incidents that occurred outside of California but were filed in this district and are accompanied by short form complaints that designate (improperly in Uber’s view) this district as the proper forum (977 cases); and (4) cases alleging incidents in California (25 cases). Cases falling in all four categories may be appropriate bellwether trial candidates, regardless of whether the parties are willing to waive *Lexecon*.

Category	Description	# of Cases
1	Cases filed elsewhere and transferred by JPML	27
2	Cases directly filed in this district with short form complaints designating other forums	436
3	Cases alleging non-California incidents with short form complaints designating N.D. Cal.	977
4	Cases alleging California incidents	25

1 The fact that a case may be transferred or remanded to another forum for trial does not
 2 reduce its value as a bellwether trial case. On the contrary, the trial of any case can function and
 3 serve the same purpose as a bellwether, including cases tried elsewhere: “Individual cases
 4 proceeding through trial, verdict, and appeal *in a variety of jurisdictions* gradually reveal the
 5 behavior of juries and judges, clarify the applicable rules of law, and render expected value of
 6 individual claims more predictable. . . . In this way, the litigator acquires an increasingly solid
 7 empirical foundation for his estimates of claim values.” Peter H. Schuck, *Mass Torts: An*
 8 *Institutional Evolutionist Perspective*, 80 Cornell L. Rev. 941, 959 (1995) (emphasis added).

9 In fact, limiting bellwether trials to a single venue and to a single jury pool in the
 10 coordination court is not the best system for establishing settlement values. The “informational
 11 output” from bellwether trials is improved by conducting trials in “different locations . . . before
 12 different jury pools.” Eldon E. Fallon, *Bellwether Trials*, 89 UMKC L. Rev. 951, 955–56 (2021)
 13 (referring to bellwether trials in multidistrict litigation). A case requiring transfer under *Lexecon*
 14 would, therefore, provide meaningful data on how cases are resolved in their home forums and
 15 would be an asset to the parties for their efforts in reaching a global resolution for *all* cases
 16 coordinated in this MDL. In fact, remand of select bellwether cases is considered a “best practice”:

17 Instead of the transferee judge handling all bellwether trials dependent upon
 18 obtaining appropriate *Lexecon* waivers, the judge should consider remanding
 19 representative cases back to the transferor districts for trial. Not only would this
 20 practice mitigate the risk of a single transferee judge exerting outsized influence on
 21 the proceedings, but it also would provide a wider range of information on the
 strength and weaknesses of individual cases adjudicated by juries and judges in
 different jurisdictions. Moreover, these bellwether trials would better reflect the
 jurisdictional variations in underlying substantive law.

22 See Bolch Judicial Institute, Duke Law School, *Guidelines and Best Practices for Large and Mass-*
 23 *Tort MDLs* 22 (2d Ed. 2018) [hereinafter *Mass-Tort MDLs Guidelines and Best Practices*].

24 Moreover, Uber’s forthcoming transfer motion concerning the third category of cases (i.e.,
 25 those alleging a non-California incident but designating this district as the proper forum) needs to
 26 be resolved regardless of which cases ultimately end up in the initial bellwether pool. If the transfer
 27 motion is granted, then the vast majority of cases remaining in the MDL will fall in the first two
 28 categories of *Lexecon* cases, which necessarily must be included in the bellwether pool. If the

1 transfer motion is denied, then some cases alleging non-California incidents must be tried in this
2 district, and can be prepared for trial alongside the cases that ultimately will be remanded. In any
3 event, cases that ultimately will be remanded or transferred to courts in other jurisdictions comprise
4 a significant portion of the MDL and, accordingly, should not be categorically ignored during a
5 bellwether process which is meant to facilitate litigation-wide resolution.

6 Uber's proposed bellwether selection process and timeline align well with the
7 consideration and resolution of transfer and remand motions. These motions can be fully briefed
8 and adjudicated over the coming months in parallel with the exchanges of information that will
9 lead to the initial bellwether Plaintiffs amending their short form complaints, and well before the
10 parties select cases for their tentative bellwether trial lists in early June 2025. The Court and the
11 parties can then address when to remand the first two categories of *Lexecon* cases in the bellwether
12 pool in the weeks leading up to the tentative bellwether submissions.¹

13 In sum, the parties should be moving forward to resolve cases falling in all four categories,
14 and all cases should therefore be eligible for the initial bellwether pool. Uber's bellwether
15 selection proposal allows for the simultaneous resolution of those issues - - including transfer and
16 remand - - that can and should inform which cases should ultimately be selected for bellwether
17 trials.

18 **Status of Fact Sheets.** To the extent Plaintiffs assert that only those cases with fully
19 completed Plaintiff and Defense Fact Sheets should be considered, Uber disagrees. Pursuant to
20 the deadlines outlined in Pretrial Order No. 10, 324 Plaintiff Fact Sheets and 760 Defense Fact
21 Sheets are not yet due and accordingly have yet to be exchanged. Hundreds of these fact sheets,
22 however, are due within the next few months. In fact, the parties will have exchanged the vast
23 majority (more than 98%) of outstanding fact sheets by March 21, 2025, giving the parties multiple
24 months to identify and cure any deficiencies before tentative bellwether lists are due. Moreover,
25 the Court recently resolved global Plaintiff Fact Sheet disputes, ordering Plaintiffs to remedy
26

27
28 ¹ The Court may decide to consider summary judgment, *Daubert*, and other motions for
these cases or remand the cases earlier in order to allow home courts to address these issues in any
Lexecon cases selected for the parties' tentative bellwether lists.

deficiencies by December 18, 2024. Although Uber anticipates that several deficiencies may not be resolved by that time, the parties will have sufficient time to resolve any additional fact sheet disputes following the selection of the initial bellwether pool.

B. The Incident Classification Taxonomy

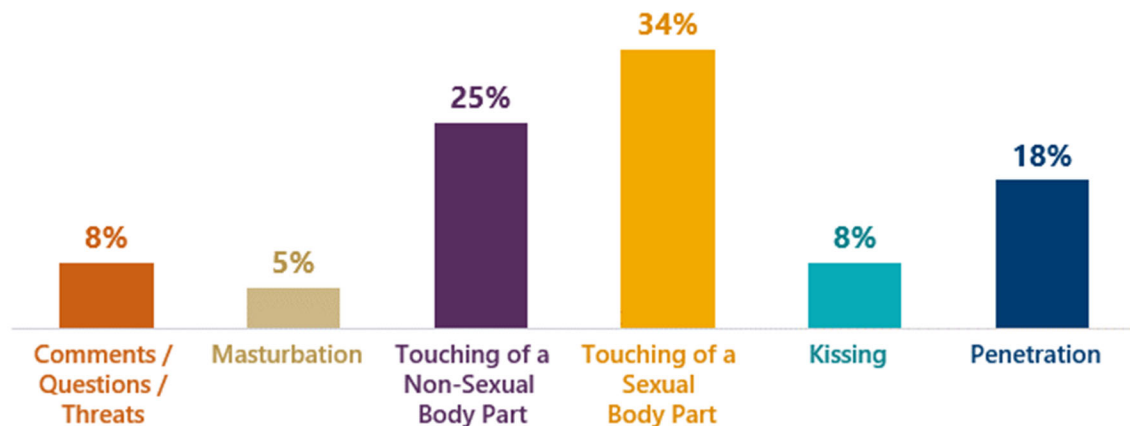
Plaintiffs allege individualized experiences of sexual misconduct that vary widely in severity - - from inappropriate comments and questions to nonconsensual penetration. Plaintiffs' attempt to minimize the import of the wide-ranging types of misconduct alleged as useful only for determining a "monetary value for each type." On the contrary, the type of specific and highly individualized conduct alleged implicates several critical and case-dispositive issues including (but not limited to) breach of duty, causation, foreseeability, and damages. Accordingly, the classification of a case is a crucial data point for understanding an individual case and will be helpful in valuing and resolving Plaintiffs' claims. For this reason, it is imperative that the bellwether trial cases are selected from a representative pool that includes numerous types of alleged conduct.

When completing their Plaintiff Fact Sheets, each Plaintiff sorts her own case in one or more of 18 categories of sexual misconduct and assault, which are listed and defined in Defendants' Appendix A. This classification system - - the incident taxonomy, already used in the Uber Rideshare JCCP (the "JCCP") - - was developed by the National Sexual Violence Resource Center ("NSVRC")² and the Urban Institute, in partnership with Uber. *See* National Sexual Violence Resource Center & Urban Institute, Helping Industries to Classify Reports of Sexual Harassment, Sexual Misconduct, and Sexual Assault: A Joint Project of the National Sexual Violence Resource Center and the Urban Institute, https://www.nsvrc.org/sites/default/files/publications/2018-11/NSVRC_HelpingIndustries.pdf (2018). "The taxonomy is built to categorize the customer reports [Uber] receive[s], using the behaviors described by the reporter."

² The NSVRC, a non-profit funded by the Centers for Disease Control and Prevention's Division of Violence Prevention, is the "leading nonprofit in providing information and tools to prevent and respond to sexual violence." National Sexual Violence Resource Center, About the National Sexual Violence Resource Center, <https://www.nsvrc.org/about/national-sexual-violence-resource-center> (last visited Nov. 24, 2024).

Id. at 9.

To date, Plaintiffs have submitted Plaintiff Facts Sheets in 1031 cases. The below chart reflects the distribution of cases across the taxonomy categories for all 1031 of those cases. The classification of each case is based on Plaintiffs' own responses to Question 21 of the Plaintiff Fact Sheet, with several like-classifications combined to help illustrate the mix of cases coordinated in this MDL. For example, all four categories involving the touching or attempted touching of a sexual body part have been combined.³ A more detailed chart providing a full breakdown of the taxonomy classifications selected by the 1031 Plaintiffs is appended to this submission as Defendants' Appendix B. For this submission, where a Plaintiff selected more than one category, Uber has used the most severe category selected.



As shown above, the cases coordinated in this proceeding involve conduct distributed across the taxonomy. As further discussed below, a relatively large, randomly selected initial bellwether pool will help provide an appropriate mix of representative cases involving the many

³ Uber has also grouped Lewd and/or Inappropriate Comments or Questions or Gestures with Verbal Threats of Sexual Assault to represent lower severity conduct that does not involve physical contact. As reflected in Defendants' Appendix B, there are only five Kidnapping cases (less than 1% of all cases), and Kidnapping is not part of the NSVRC taxonomy, so it is therefore not presented on this chart. Finally, there are 15 cases for which Uber could not discern a clear taxonomy classification based on the Plaintiff Fact Sheets, and those cases have also been omitted from this chart.

1 taxonomy categories that characterize and meaningfully differentiate the cases in this proceeding.

2 **C. Identifying The Initial Bellwether Pool**

3 For the reasons that follow, Uber submits that the initial bellwether pool should comprise
 4 50 cases selected through a randomized process to be agreed upon by the parties by January 10,
 5 2025, and executed by January 17, 2025. *See* McKinsey’s Tribal Pl. Bellwether Protocol at 1, *In*
 6 *re: McKinsey & Co., Inc. National Prescription Opiate Consultant Litigation*, No. 21-MD-02996
 7 (N.D. Cal. Apr. 28, 2023), ECF No. 539 [hereinafter McKinsey Tribal Bellwether Order] (adopting
 8 McKinsey’s proposal for the parties to “work cooperatively to agree on a method for random
 9 selection to select” 48 tribal bellwether plaintiffs).⁴

10 **Size.** This MDL comprises 1459 cases involving claims governed by the law of 46 states
 11 and a wide range of alleged conduct spanning the taxonomy and damages. An initial bellwether
 12 pool of 50 cases (about 3% of the coordinated cases) substantially narrows the universe of cases
 13 while still providing a representative mix of the different claims and various states’ laws at issue.
 14 It provides the parties with a manageable number of cases to focus their additional fact-gathering
 15 and disclosure efforts and provides Plaintiffs with a manageable number of cases for which they
 16 can assess individualized allegations and amend their short form complaints, if they intend to.

17 This proposal also accounts for the likelihood that several cases will be removed from the
 18 initial bellwether pool after that pool is identified, and reduces the risk that the parties and the
 19 Court will be left with fewer, and perhaps unrepresentative, options when it comes time to select
 20 their proposed cases for bellwether trials. Between selection of the initial bellwether pool and
 21 submission of tentative bellwether lists in June, cases may be voluntarily dismissed, as has
 22 happened in the JCCP. Plaintiffs whose cases are selected may decide not to pursue their claims.
 23 Plaintiffs’ counsel may also have difficulty getting in contact with certain Plaintiffs and may move

24 ⁴ Uber proposes that random selection should be conducted through the use of a
 25 randomizing software. To facilitate use of the software, each case should be assigned a unique
 26 number 1 through 1459, or whatever the number of coordinated cases is at the time of random
 27 selection. At a predetermined time, the parties would use the randomizing software to generate 50
 28 unique numbers. Cases assigned to those generated numbers would then become part of the initial
 bellwether pool. *See, e.g.,* Pretrial Order No. 18: Initial Selection of Plaintiffs for Discovery and
 Trial Pool at 3, *In re: Bextra & Celebrex Mktg. Sales Practices & Prod. Liab. Litig.*, No. 05-MD-
 01699 (N.D. Cal. Nov. 17, 2006), ECF No. 751 [hereinafter Bextra & Celebrex Bellwether Order].

1 to withdraw as counsel for that reason or other reasons, as has happened in the JCCP. The parties
2 may also discover new facts that make a case unsuitable for a bellwether trial. Thus, there are
3 several ways - - beyond the control of the Court, Uber, or Plaintiffs' counsel - - in which the initial
4 bellwether pool could shrink. A larger pool of initial cases mitigates the risk that the bellwether
5 process will suffer as a consequence.

6 These risks are not hypothetical. In the JCCP, four of Uber's ten bellwether selections and
7 both of the replacement cases it selected were dismissed or otherwise removed from bellwether
8 trial consideration (i.e., plaintiffs' counsel moved to withdraw as counsel). Two of these cases
9 were withdrawn from consideration less than three weeks before the parties were set to submit
10 their final bellwether rankings to the JCCP court, leaving Uber and the court without sufficient
11 time to identify appropriate replacement cases. Because Uber only had six cases remaining by the
12 time the parties submitted their rankings, JCCP plaintiffs also only ranked six of their selections,
13 leaving the JCCP court with only twelve cases as trial candidates, instead of 20. Of those twelve,
14 the JCCP court and the parties identified, based on information gathered during discovery, at least
15 three cases which were outliers and not suitable bellwether trial cases. As a result, the JCCP court
16 was left with less than half of the intended number of potential trial cases to choose from. An
17 initial pool of 50 cases, together with the time after this selection for limited discovery,
18 communication by counsel with these chosen plaintiffs, and individualized motions to dismiss
19 would protect against unpredictable dismissals, withdrawals from the pool, and unrepresentative
20 bellwether choices, thereby better ensuring a robust and representative set of cases from which
21 bellwethers can be chosen.

22 Finally, and as the Court instructed at the November 6, 2024 Case Management
23 Conference, the parties and the Court should take a "balanced approach" to identifying the initial
24 bellwether pool and the cases ultimately selected for bellwether trials by choosing cases that raise
25 claims governed by the laws of several states and falling within the jurisdiction of several federal
26 circuit courts. *See* Nov. 6, 2024 CMC Tr. at 15:8–15:21. As discussed above, the bellwether cases
27 must also account for the wide variety of alleged conduct across the taxonomy. The best way to
28 obtain an appropriate and representative (i.e., balanced) choice of cases - - including cases with a

1 mix of taxonomy categories, incident states, and incident dates - - is to select a sufficiently large
 2 initial bellwether pool. Starting with 12 (or even 20) initial bellwether cases, as Plaintiffs suggest,
 3 is insufficient to capture the diversity of cases in this MDL, particularly if such cases are hand-
 4 selected by the parties.

5 In sum, an initial bellwether pool of 50 cases narrows the MDL cases in a way that is
 6 manageable while still being sufficiently large enough to reflect the diversity of the MDL cases
 7 and to provide the parties and the Court with suitable options when selecting the cases that will
 8 proceed to trial.

9 **Random Selection.** Random selection of cases for inclusion in the initial bellwether pool
 10 allows for an efficient and fair bellwether selection process. Instead of the parties spending
 11 valuable time and resources identifying the cases each believes is the best from their perspective,
 12 random selection allows the parties to quickly narrow the universe of potential trial cases and move
 13 forward in a targeted fashion. Not only do both sides currently have imperfect and incomplete
 14 information from which to base any assessment of which cases would be best or most
 15 representative, there is an enormous information asymmetry arising from the fact that Plaintiffs’
 16 counsel have access to their clients and detailed information about their claims in a way
 17 unavailable to Uber. Moreover, Plaintiffs are receiving numerous documents in connection with
 18 the Defendant Fact Sheets and through corporate discovery, whereas Uber’s discovery into
 19 Plaintiffs’ claims has been limited completely to their Plaintiff Fact Sheets, submitted ride receipts,
 20 and some third-party records, which Uber is in the process of obtaining. Thus, Uber would be at
 21 a decided disadvantage if the parties were to select their own cases for inclusion in the initial
 22 bellwether pool. In fact, one empirical analysis of bellwether litigation found that “a party
 23 selection process disadvantaged the defense disproportionately and undermined the fairness
 24 needed” because “plaintiffs’ selections were significantly more likely to result in bellwether
 25 plaintiffs whose claims were much stronger than a random sample” whereas “defense selections
 26 were comparable to the random selections.” *See* Loren H. Brown, Matthew A. Holian & Arindam
 27 Ghosh, *Bellwether Trial Selection in Multi-District Litigation: Empirical Evidence in Favor of*
 28 *Random Selection*, 47 Akron L. Rev. 663, 690 (2014).

Random selection for initial bellwether pools has been used before, including in this Court. *See, e.g.*, McKinsey Tribal Bellwether Order at 1; Bextra & Celebrex Bellwether Order at 2; Order re: Bellwether Trial Selection, *In re Prempro Prods. Liab. Litig.*, No. 03-cv-01507 (E.D. Ark. June 20, 2005), ECF No. 671 (selecting a bellwether trial cases by “randomly draw[ing] from a hat (literally) fifteen cases” from a narrowed pool after which discovery was to “commence ‘full speed ahead’”); Pretrial Order No. 89, *In re Baycol Prods. Litig.*, MDL No. 1431 (D. Minn. Jul. 18, 2003) (establishing a process that included “all cases filed in the District of Minnesota involving a Minnesota resident plaintiff plus a minimum of 200 additional cases selected at random from all MDL filed cases”); *In re Norplant Contraceptive Prods. Liab. Litig.*, 1996 WL 571536, at *1 (E.D. Tex. Aug. 13 1996) (“[f]ollowing random selection of the twenty-five bellwether trial plaintiffs . . .”). As noted in § 22.315 of the Federal Judicial Center’s Manual for Complex Litigation (Fourth), “To obtain the most representative cases from the available pool, a judge should direct the parties to select test cases randomly or limit the selection to cases that the parties agree are typical of the mix of cases.” (citing *In re Chevron U.S.A., Inc.*, 109 F.3d 1016, 1019 (5th Cir. 1997)). The benefits of random selection are maximized when the bellwether pool is not unduly restricted in size: “To yield meaningful bellwether results, random selection should include cases that do not overly favor either side and that allege injuries that are widely represented in the docket as a whole (which should occur naturally if the random sample is sufficiently large) . . .” Brown, Holian & Ghosh, *supra*, at 684.

Party selection of initial bellwether cases and subsequent party strikes, on the other hand, are unlikely to result in an appropriate and representative collection of cases, as the parties may be inclined to pick cases concentrated at one end of the severity spectrum or cases that otherwise fit into one or two categories that the parties deem beneficial to their side. *See id.* at 690 (“If the parties believe that the cases that are selected are outliers, then the information-gathering purpose of a bellwether process is impaired significantly. Any verdicts are not likely to be accepted as generalizable to the remainder of the docket and may have little or no value in the resolution process.”). In the JCCP, for example, five out of the six cases the plaintiffs chose to submit for trial were penetration cases, despite the fact that only 22% of the cases in the JCCP involved

penetration allegations.⁵ Moreover, because Plaintiffs’ counsel can communicate with individual Plaintiffs and gauge their willingness to participate in the bellwether process, more of Plaintiffs’ selected cases would likely remain in the bellwether pool. As discussed above, six of Uber’s JCCP selections were unilaterally removed from bellwether trial consideration. Conversely, although the JCCP plaintiffs ultimately submitted six cases for ranking, all ten of their bellwether selections remained at the time of ranking and were eligible to be ranked. JCCP plaintiffs thus unilaterally selected which six cases (of their ten) to present to the court for ranking. Specific selection of cases in this MDL could very well lead to similarly unfair results. *See Mass-Tort MDLs Guidelines and Best Practices* at 26 (“The transferee judge should adopt rules that will minimize the risk that parties will attempt to ‘game’ the bellwether trial-selection process to result in test trials of cases that are not representative of the entire case pool.”).

Random selection not only puts the parties on an even playing field, it also prevents the parties from intentionally or inadvertently selecting a homogenous and thus unrepresentative set of cases reflecting only a small portion of the cases. Random selection would also permit the parties to quickly identify the initial bellwether pool and allow them to focus resources on a limited set of cases.

D. Narrowing the Bellwether Pool

As discussed, random selection will allow the parties to focus efforts on further developing potential trial cases over the next several months. Uber proposes that engaging in targeted discovery and amending short form complaints for cases in the initial bellwether pool will allow the parties to maximize this time and obtain the information necessary to evaluate which cases are appropriate bellwether cases and which should be included in the June 1 tentative bellwether lists. Full discovery, including depositions, should begin following the identification of the tentative bellwether cases and should be reserved for only those cases.

Targeted Discovery. Some degree of discovery beyond the Plaintiff Fact Sheets is warranted to help overcome the information asymmetry which currently exists. Specifically, Uber

⁵ Of the original ten cases that the JCCP plaintiffs selected for inclusion in the bellwether pool, seven were penetration cases.

1 proposes that the parties engage in exchanges of information to clarify and develop issues raised
2 in the Plaintiff Fact Sheets and related document productions. Targeted discovery in the form of
3 interrogatories concerning case-specific issues and subpoenas for select third-party records related
4 to individual Plaintiffs' claims also is appropriate. This limited discovery on only 3% of Plaintiffs
5 is warranted and not burdensome.

6 This discovery not only will provide the parties with relevant information about the
7 Plaintiffs, their claims, and their alleged damages, it will require the potential bellwether Plaintiffs
8 to meaningfully engage in the litigation and will help determine which Plaintiffs are willing to
9 prosecute their claims all the way through trial. It may also encourage Plaintiffs to crystalize their
10 claims. In the JCCP, for example, at least four of the bellwether candidate Plaintiffs who initially
11 indicated that they were claiming lost earnings ultimately dropped those claims following written
12 discovery and related document productions. Moreover, if the parties were to wait until after June
13 1, 2025 to conduct all discovery for the bellwether cases, it would be difficult if not impossible to
14 complete discovery in time to hold trials beginning next year.

15 During this period, the parties also will have the ability to engage in whatever additional
16 information-sharing is needed to allow the Plaintiffs in the initial bellwether pool to amend their
17 short form complaints.

18 **Short Form Complaints.** Before the parties can provide the Court with their tentative
19 bellwether lists, it is important that they understand the universe of claims at issue in the
20 coordinated cases. As contemplated by the Court at the November 6, 2024 Case Management
21 Conference, Uber believes that Plaintiffs in the initial bellwether pool will be prepared to amend
22 (or not) their short form complaints with individualized allegations, as necessary, by April. Uber
23 proposes a deadline of April 11, 2025 for these amendments, which will leave the parties several
24 weeks to evaluate the cases remaining in the initial bellwether pool and give Uber the opportunity
25 to conduct additional limited discovery related to those amendments.

26 Uber would then have the opportunity to file additional motions to dismiss related to the
27 amended complaints. Any such motions could be briefed and adjudicated in the months between
28 the filing of the amended complaints and final bellwether selections, which will be selected from

the tentative bellwether lists following fuller discovery, which itself will provide valuable information for a litigation-wide resolution.

E. Tentative Bellwether Lists and Trial Preparation

With the targeted discovery described above and Plaintiffs' amended short form complaints, the parties will have sufficient information to determine which of the remaining cases in the initial bellwether pool are most likely to comprise an appropriate and representative mix of bellwether trial cases. Uber believes that each party should select 10 cases for their tentative lists, resulting in a total of 20 potential trial cases. Starting on June 1, 2025, the parties would begin full discovery and trial preparation for the cases in this narrowed bellwether pool, including Plaintiff depositions, key third party depositions, and additional written discovery, document productions, and third-party subpoenas.⁶ At this time, the parties should also submit proposals for outstanding case management deadlines and trial dates.

Later in Summer to Fall 2025, the parties would submit rankings of the cases from the tentative bellwether lists with key details about each case, arguments for why certain cases are particularly well- or ill-suited for bellwether trials, and any other information that would be helpful to the Court in selecting cases for trial.⁷ Following this ranking, the Court would set the trial order, and the parties would prepare for the scheduled trials, with the first trial commencing in December 2025.

F. Multi-Plaintiff Trials

Plaintiffs' suggestion that the Court should consider the possibility of multi-plaintiff bellwether trials in "waves" is premature and need not be resolved at this time. There is more than sufficient time in the schedule for the Court to later determine this issue, but now is not that time. Nor need it be.

⁶ Plaintiffs' concern about "stale" discovery is unfounded. Uber's proposal to conduct Plaintiff depositions for only a narrowed subset of the bellwether pool starting in the summer of 2025 greatly reduces the chance that a prolonged period of time will pass between a Plaintiff's deposition and the trial of her case.

⁷ Uber proposes that if any of the 20 cases in the narrowed bellwether pool are subsequently dismissed or otherwise deemed unable to proceed to trial, the party that submitted that case to the Court may select a replacement case from those remaining in the initial bellwether pool, so long as the replacement case is identified well before the parties' ranking deadline.

Multi-plaintiff trials will be highly prejudicial to Uber, and of limited value. First, including multiple plaintiffs with different alleged incidents, different alleged injuries, under different facts and circumstances, involving different drivers, in a single case would be profoundly prejudicial to Uber, which we suspect is the purpose of the proposal. *See, e.g.,* Irwin A. Horowitz & Kenneth S. Bordens, *The Consolidation of Plaintiffs: The Effects of Number of Plaintiffs on Jurors' Liability Decisions, Damage Awards, and Cognitive Processing of Evidence*, 85 J. Applied Psychol. 909 (2000) (finding that a defendant was more likely to be judged as liable as the number of plaintiffs increased); Matthew A. Reiber & Jill D. Weinberg, *The Complexity of Complexity: An Empirical Study of Juror Competence in Civil Cases*, 78 U. Cin. L. Rev. 929 (2010) (finding that juror comprehension declines as complexity from the presence of multiple parties increases). Indeed, lead MDL counsel has acknowledged that these are “individual cases,” and “the details and severity of the cases widely vary.”⁸ And as the Court stated during the first status conference on November 3, 2023, “each Plaintiff has a different story to tell.” Nov. 3, 2023 Status Conference Tr. at 7:6–7:7; *see also id.* at 19:25–20:3 (“In this case it seems to me that damages are sort of highly individualized. One person’s sexual assault may be very different from another person’s sexual assault. It may be different in kind and it may be different in effect.”). Maintaining the individualized nature of these matters is essential for fair and impartial trials. *See In re Repetitive Stress Injury Litig.*, 11 F.3d 368, 373 (2d Cir. 1993) (“The systemic urge to aggregate litigation must not be allowed to trump our dedication to individual justice, and we must take care that each individual plaintiff’s—and defendant’s—cause not be lost in the shadow of a towering mass litigation.” (citation omitted)).

Multi-plaintiff trials are especially improper in the context of a bellwether trial process as it would become difficult to draw any reliable lessons about particular types of cases - - which is the whole point of bellwether trials. *See, e.g., Mass-Tort MDLs Guidelines and Best Practices* at 25 (“Cases should generally not be consolidated for trial. At the bellwether stage, the goal should

⁸ *Uber Faces Mounting Sexual Assault, Harassment Lawsuits in San Francisco*, KRON4 (June 30, 2021), <https://www.kron4.com/news/bay-area/uber-faces-mounting-sexual-assault-harassment-lawsuits-in-san-francisco>.

1 be to achieve valid tests, not to resolve large numbers of claims. Consolidation can tilt the playing
 2 field, undermining the goal of producing representative verdicts.”). Consolidated trials pose a
 3 serious risk of jury confusion and conflation of critical and case dispositive issues, opening the
 4 door for uncertainty about the informative value of a verdict. Although Plaintiffs assert that
 5 consolidated cases can be grouped in “waves” by certain “criteria” to limit jury confusion, that
 6 assertion is particularly unconvincing when working in the abstract with yet-to-be-identified
 7 bellwether cases.

8 Consolidated trials are also not necessary to account for the risk that a selected bellwether
 9 case is worked up but then resolved prior to trial. Each individual bellwether case, regardless of
 10 how it is tried, will require the parties and the Court to expend time and resources in the lead up to
 11 trial. Moreover, staggered, individual trials do not mean that the Court and the parties will only
 12 be making progress on one case at any given time. Uber anticipates each bellwether trial to last
 13 just a few weeks and to begin shortly after the conclusion of the prior trial. Simultaneous
 14 preparation of multiple, individual bellwether cases will permit the parties to move subsequently
 15 scheduled trials up or, if rescheduling is not possible, will ensure that any delay caused by late
 16 vacated trials is relatively minor. The inherent unpredictability of litigation is no reason to infringe
 17 on the fairness and usefulness of the bellwether process.⁹

18 For these reasons, Uber maintains that to accomplish the true goals of the bellwether
 19 process in an efficient and streamlined way, bellwether trials should be limited to single plaintiff
 20 cases.¹⁰ In any event, as Plaintiffs themselves recognize, this issue need not be resolved at this

21 _____
 22 ⁹ Plaintiffs mischaracterize the discussion of consolidated trials at the last JCCP hearing.
 23 Although Judge Schulman expressed willingness to hear any issues raised by the parties, he stated:
 24 “[T]he received wisdom is that these cases are -- like personal injury cases, generally are individual
 25 and should be tried as such.” Defs. Ex. A, Excerpt of JCCP Oct. 22, 2024 Hr’g Tr. at 15:3–15:5.
 26 Notably, the JCCP parties are currently in the process of negotiating amendments to the operative
 27 scheduling order, and neither side’s proposal contemplates multi-plaintiff trials.

28 ¹⁰ For these reasons, other courts have routinely insisted that bellwether trials proceed on
 an individual basis. *See, e.g., In re: Testosterone Replacement Therapy*, MDL No. 2545, No. 14-
 cv-1748, Dkt. 1787 (N.D. Ill. Mar. 15, 2017) (selecting seven plaintiffs for seven bellwether trials);
In re: Xarelto (Rivaroxaban), No. 14-md-2592, Dkt. 3856 (E.D. La. Aug. 18, 2016) (selecting two
 plaintiffs for two bellwether trials); *In re: Cook Medical, Inc.*, MDL No. 2570, No. 14-ml-2570-
 RLY-TAB, Dkt. 2107 (S.D. Ind. July 19, 2016) (selecting three plaintiffs for three bellwether

time. To the extent the Court is inclined to consider the idea of multi-plaintiff bellwether trials at some point, it would make far more sense to consider the issue in the context of specific tentative bellwether cases with full briefing, rather than in the abstract without the benefit of fully developed arguments. Thus, if the Court desires, the parties can make further submissions on this issue in connection with the tentative bellwether lists in June or the subsequently filed bellwether ranking submissions.

G. Proposed Schedule

Uber proposes the below schedule for the bellwether selection process and related filings, and further submits that proposed pre-trial and trial schedules should be filed with the parties' tentative bellwether lists on June 1. Plaintiffs' complicated proposed schedule for "waves" of cases with staggered schedules will not materially advance this MDL toward trial but rather will impose unnecessary and counterproductive complication upon the case-specific discovery process. Uber's proposed schedule, on the other hand, is a straightforward, streamlined, and effective way to prioritize discovery and work up cases for trial: the pool is narrowed to 50 cases by January, with targeted discovery also commencing then; the pool is further narrowed to 20 cases in early June for full discovery; and the parties provide the Court with rankings from which to select trial cases in the summer to fall - - with discovery correspondingly becoming more targeted as the applicable universe of cases narrows.

trials); *In re: Propecia Finasteride*, MDL No. 2331, No. 12-md-2331, Dkt. 295-1 (E.D.N.Y. Mar. 16, 2016) ("The initial bellwether trial will consist of one plaintiff."); *In re: Zimmer NexGen Knee Implant*, MDL No. 2272, No. 11-cv-5468, Dkt. 1826 (N.D. Ill. Mar. 11, 2016) (selecting four plaintiffs for four bellwether trials); *In re: Fresenius Granuflo/Naturalyte Dialysate*, MDL No. 2428, No. 13-md-2428, Dkt. 583 (D. Mass. Apr. 8, 2014) ("Any cases that are ultimately tried shall be tried individually, with a single Plaintiff per trial."); *In re Hydroxycut Mktg. & Sales Practices Litig.*, MDL No. 2087, No. 3:09-md-2087-BTM(KSC), Dkt. 1441 (S.D. Cal. June 29, 2012) ("The selection of *individual* plaintiffs by the parties with oversight from the court is similar to approaches taken by other courts in designating representative bellwether cases for trial.") (emphasis added); *In re Vioxx Prods. Liab. Litig.*, 760 F. Supp. 2d 640, 644 (E.D. La. Oct. 19 2010) (noting that six bellwether trials of individual plaintiffs were conducted during the course of litigation); *In re Yasmin & Yaz*, MDL No. 2100, No. 3:09-md-02100-DRH-PMF, Dkt. 1329 (S.D. Ill. Oct. 13, 2010) (providing that plaintiffs for inclusion in the bellwether pool "must be selected . . . *individually*") (emphasis added).

Step of Bellwether Selection Process	Uber's Proposal
Identification of random selection process for initial bellwether pool	January 10, 2025
Initial bellwether pool randomly selected	January 17, 2025
Transfer motions due	February 7, 2025
Transfer oppositions due	February 21, 2025
Transfer replies due	February 28, 2025
Hearing on transfer motions	March 21, 2025
Amended short-form complaints for initial bellwether pool	April 11, 2025
Tentative bellwether list(s) and proposed trial schedule(s) due to Court	June 1, 2025
Parties begin full discovery and trial work up of bellwether trial candidates	June 1, 2025
Proposed bellwether rankings due to Court and trial order selection	Summer to Fall 2025
First bellwether case ready for trial	December 2025

1 Dated: December 4, 2024

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Defendants' Appendix A

1. **Lewd and/or Inappropriate Comments or Questions or Gestures:** This category is defined to include, but is not limited to, the following: asking specific, probing, and personal questions of the user; making uncomfortable comments on the user's appearance; making sexually suggestive gestures at the user; and asking for a kiss, displays of nudity, sex, or contact with a sexual body part.
2. **Verbal Threat of Sexual Assault:** This category is defined to include directing verbal explicit/direct threats of sexual violence at a user.
3. **Masturbation and/or Indecent Exposure:** This category is defined to include exposing genitalia and/or engaging in sexual acts in the presence of a user.
4. **Attempted Touching of a Non-Sexual Body Part:** This category is defined to include, without consent from the user, attempting to touch, but failing to come into contact with, any non-sexual body part (hand, leg, thigh) of the user.
 - a. **Over the Clothes:** This category is defined to include any attempted touch over any piece of clothing on the user (e.g., pants, shirt, bra, underwear) as well as any attempted touch on an area that in no way has clothing covering it (e.g., parts of the thigh when wearing shorts).
 - b. **Under the Clothes:** This category is defined to include any attempted touch on a part of a user's body which is covered by clothing. It does not include an attempted touch on an area that does not have clothing covering it in the first instance (e.g., parts of the thigh when wearing shorts).
5. **Attempted Kissing of a Non-Sexual Body Part:** This category is defined to include, without consent from the user, attempting but failing to kiss, lick, or bite any non-sexual body part (e.g., hand, leg, thigh) of the user.
6. **Attempted Touching of a Sexual Body Part Not Involving Penetration:** This category is defined to include, without explicit consent from the user, attempting to touch, but failing to come into contact with, any sexual body part (i.e., breast, genitalia, mouth, buttocks) of the user. It does not include attempts at penetration.
 - a. **Over the Clothes:** Same definition as 4(a).
 - b. **Under the Clothes:** Same definition as 4(b).
7. **Attempted Kissing of a Sexual Body Part:** This category is defined to include, without consent from the user, attempting but failing to kiss, lick, or bite on either the breast or buttocks of the user. This also includes attempts to kiss on the lips and attempts to kiss while using tongue.
8. **Touching of a Non-Sexual Body Part:** This category is defined to include, without explicit consent from the user, touching or forcing a touch on any non-sexual body part (e.g., hand, leg, thigh) of the user.

- 1 a. **Over the Clothes**: This category is defined to include any touch over any piece of clothing
2 on the user (e.g., pants, shirt, bra, underwear) as well as any touch on an area that in no
3 way has clothing covering it (e.g., parts of the thigh when wearing shorts).
- 4 b. **Under the Clothes**: This category is defined to include any touch under clothing which
5 causes contact with the user's skin. It does not include a touch on an area that does not
6 have clothing covering it in the first instance (e.g., parts of the thigh when wearing shorts).
- 7 9. **Kissing of a Non-Sexual Body Part**: This category is defined to include, without consent
8 from the user, any kiss, lick, or bite, or forced kiss, lick, or bite on any non-sexual body part (e.g.,
9 hand, leg, thigh) of the user.
- 10 10. **Attempted Sexual Penetration Including Oral Copulation**: This category is defined to
11 include, without explicit consent from a user, attempting but failing to penetrate, no matter how
12 slight, the vagina or anus of a user with any body part or object. This includes attempted
13 penetration of the user's mouth with a sexual organ or sexual body part. This excludes kissing and
14 attempted kissing with tongue.
- 15 11. **Touching of a Sexual Body Part Not Involving Penetration**: This category is defined to
16 include, without explicit consent from the user, touching or forcing a touch on any sexual body
17 part (i.e., breast, genitalia, mouth, buttocks) of the user. It does not include penetration.
- 18 a. **Over the Clothes**: Same definition as 8(a).
- 19 b. **Under the Clothes**: Same definition as 8(b).
- 20 12. **Kissing of a Sexual Body Part**: This category is defined to include, without consent from
21 the user, any kiss, lick, or bite, or forced kiss, lick, or bite on either the breast or buttocks of the
22 user. This also includes kissing on the lips and kissing while using tongue.
- 23 13. **Sexual Penetration Including Oral Copulation**: This category is defined to include,
24 without explicit consent from a user, penetration, no matter how slight, of the vagina or anus of a
25 user with any body part or object. This includes penetration of the user's mouth with a sexual
26 organ or sexual body part. This excludes kissing with tongue.
- 27 14. **Kidnapping**: This category is defined to include abduction, child abduction, false
28 imprisonment, human trafficking, unlawful restraint, and unlawful/forcible detention.¹¹

¹¹ "Kidnapping" is a unique category that resulted from Plaintiffs' references to kidnapping in their Master Long Form Complaint and is not part of the taxonomy developed by the NSVRC and the Urban Institute.

Defendants' Appendix B

Taxonomy Category	Count	%¹²
Lewd/Inappropriate Comments/Questions/Gestures/Verbal Threats	85	8%
<i>Lewd and/or Inappropriate Comments or Questions or Gestures</i>	41	4%
<i>Verbal Threat of Sexual Assault</i>	44	4%
Masturbation and/or Indecent Exposure	51	5%
Touching of a Non-Sexual Body Part	257	25%
<i>Attempted Touching of a Non-Sexual Body Part: Over the Clothes</i>	17	2%
<i>Touching of a Non-Sexual Body Part: Over the Clothes</i>	205	20%
<i>Attempted Touching of a Non-Sexual Body Part: Under the Clothes</i>	1	0%
<i>Touching of a Non-Sexual Body Part: Under the Clothes</i>	34	3%
Touching of a Sexual Body Part	343	34%
<i>Attempted Touching of a Sexual Body Part Not Involving Penetration: Over the Clothes</i>	8	1%
<i>Touching of a Sexual Body Part Not Involving Penetration: Over the Clothes</i>	233	23%
<i>Attempted Touching of a Sexual Body Part Not Involving Penetration: Under the Clothes</i>	5	1%
<i>Touching of a Sexual Body Part Not Involving Penetration: Under the Clothes</i>	97	9%
Kissing	86	8%
<i>Attempted Kissing of a Non-Sexual Body Part</i>	2	0%
<i>Kissing of a Non-Sexual Body Part</i>	15	1%
<i>Attempted Kissing of a Sexual Body Part</i>	2	0%
<i>Kissing of a Sexual Body Part</i>	67	7%
Sexual Penetration Including Oral Copulation	190	18%
<i>Attempted Sexual Penetration Including Oral Copulation</i>	3	0%
<i>Sexual Penetration Including Oral Copulation</i>	187	18%
Kidnapping	5	1%
Other/To Be Supplemented/Unknown	14	1%
Total	1031	100%

¹² For simplicity, these figures have been rounded up or down to the nearest whole percentage point.

EXHIBIT A



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)

14-MC-2543 (JMF)

This Document Relates to All Actions

ORDER NO. 25

-----X
**[Regarding the Selection of Personal Injury and Wrongful Death
Bellwether Cases and Early Trial Scheduling]**

INTRODUCTION

1. In June 2014, the United States Judicial Panel on Multidistrict Litigation (“JPML”) began transferring cases relating to alleged defects in General Motors vehicles from various judicial districts to this Court for coordinated or consolidated pretrial proceedings. In addition to numerous cases seeking economic loss damages, *In re General Motors LLC Ignition Switch Litigation*, MDL No. 2543, currently includes more than one thousand plaintiffs who have filed personal injury and wrongful death claims against General Motors LLC (“New GM”) and other defendants. At the conclusion of pretrial proceedings, the JPML must remand these personal injury cases (as well as economic loss cases) back to the originating/transferor courts across the country. *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 34 (1998) (noting that 28 U.S.C. § 1407 “obligates the Panel to remand any pending case to its originating court when, at the latest, [] pretrial proceedings have run their course”). The originating courts will then face the prospect of trying (or settling) scores of cases involving similar claims.

2. Before reaching that point in the course of this proceeding, the Court is tasked with identifying and implementing processes and tools to manage the litigation in an effective, efficient, and just manner. Lawyers and courts recognize that bellwether or test trials may be important case

management tools in a multidistrict proceeding involving numerous individual claims. For example, United States District Judge Eldon Fallon, who presided over the MDL proceedings concerning *Vioxx*¹ and *Propulsid*,² has noted that “by establishing a mechanism for conducting ‘bellwether’ or ‘representative’ trials, the transferee court can enhance and accelerate both the MDL process itself and the global resolutions that often emerge from that process.” Fallon, *et al.*, *Bellwether Trials in Multidistrict Litigation*, 82 TUL. L. REV. 2323, 2325 (2008). Indeed, this Court has held that “bellwether trial[s] [] allow[] a court and jury to give the major arguments of both parties due consideration without facing the daunting prospect of resolving every issue in every action.” *In re Methyl Tertiary Butyl Ether (“MTBE”) Prods. Liab. Litig.*, No. 00-1898, MDL No. 1358 (SAS), 2007 WL 1791258, at *2 (S.D.N.Y. June 15, 2007); *see also, e.g., In re Chevron U.S.A., Inc.*, 109 F.3d 1016, 1019 (5th Cir. 1997) (“The notion that the trial of some members of a large group of claimants may provide a basis for enhancing prospects of settlement or for resolving common issues or claims is a sound one that has achieved general acceptance by both bench and bar.”). Bellwether trials also provide the parties with an opportunity to develop litigation frameworks that can be used in cases remanded to the originating courts.

3. The Court previously directed the parties to meet and confer “regarding a reasonable, but aggressive schedule that provides for bellwether trials as quickly as reasonably possible, given the nature and extent of the discovery and the claims in this litigation.” Order No. 18 § VI; *see also* Order No. 22 § VII. After engaging in the meet and confer process, the parties were unable to agree upon a joint proposal for selecting personal injury/wrongful death bellwether cases or the schedule for trying such cases. Lead Counsel for the MDL Plaintiffs (“Lead Counsel”)

¹ *In re Vioxx Products Liability Litigation*, MDL No. 1657.

² *In re Propulsid Products Liability Litigation*, MDL No. 1355.

and counsel for the MDL Defendants have submitted letter briefs supporting their respective proposals. (14-MD-2543 Docket Nos. 417, 418; *see also* 14-MD-2543 Docket Nos. 372, 375).

4. The Court has considered these submissions, the parties' oral arguments at the status conference held on November 6, 2014, bellwether trial orders from other federal courts handling MDL proceedings, and literature discussing the use of bellwether trials in litigation. The Court finds that bellwether trials will further the goal of effective and efficient case management in this MDL. Among other things, such trials will help the Court and the parties to (a) evaluate the claims and defenses related to common issues in the proceeding; and (b) better understand the costs and burdens of subsequent litigation.

5. This Order contains the bellwether trial plan for cases in MDL 2543 involving personal injury and wrongful death claims based on alleged defects in vehicles manufactured by New GM or General Motors Corporation ("Old GM"). The Order sets forth the procedures for identifying and selecting claims to be tried under the plan and establishes the discovery and trial schedule for those cases.

6. Notwithstanding the advantages and usefulness of bellwether trials in litigation of this sort, the Court is of the view that there may be other, less expensive means that the Court and parties could and should use — in addition to bellwether trials — to advance the litigation and promote resolution of cases individually or globally, including but not limited to early neutral evaluation and summary jury trials (either on select issues, such as gross negligence and punitive damages, or in select cases). The parties are directed to continue conferring about such additional means and should be prepared at future status conferences to address whether and when such means could or should be used.

IDENTIFICATION OF BELLWETHER ELIGIBLE CASES

7. Eighteen (18) personal injury and wrongful death cases will be identified for case-specific fact discovery (the “Initial Discovery Pool”) and then a subset of those cases will be subsequently selected for additional pretrial discovery and proceedings in preparation for trials starting in January 2016 (the “Early Trial Cases”).

8. To be eligible for inclusion in the Initial Discovery Pool, a claim must satisfy the following criteria:

- a. Plaintiff’s claim must involve a personal injury or death;
- b. Plaintiff’s claim must involve an accident occurring after New GM acquired substantially all of Old GM’s assets on July 10, 2009;
- c. The complaint containing Plaintiff’s claim must have been filed and entered on the MDL 2543 docket or transferred by the JPML to the MDL (as defined below) by December 31, 2014;
- d. Plaintiff must not have accepted an offer through the GM Ignition Compensation Claims Resolution Facility; and
- e. By January 16, 2015, Plaintiff must have submitted a Short-Form Plaintiff Personal Injury Fact Sheet (“Short-Form PFS”) that is substantially complete.

9. Federal law provides this Court with broad power to manage pretrial activities in this litigation. Many cases in this MDL proceeding were transferred from other courts to this venue by the JPML. Absent agreement by the parties, 28 U.S.C. § 1407 requires the JPML to remand a case back to the originating court before trial. Further, Order No. 1 authorized direct filing “in the Southern District of New York of related cases that emanate from other districts and that would appropriately be included in this MDL.” Order No. 1 § III. The Court made clear,

however, that “upon completion of all pretrial proceedings applicable to a case directly filed in this Court pursuant to this provision, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to a federal district court of proper venue, as defined in 28 U.S.C. § 1391, after considering the recommendations of the parties to that case.” *Id.* Accordingly, as discussed in paragraphs 35-37 below, for a claim to be eligible for inclusion in the Initial Discovery Pool, plaintiffs and defendants involved in the claim must waive any applicable venue and *forum non conveniens* challenges and agree that the claim can be tried in the United States District Court for the Southern District of New York without remanding the case to the transferor forum as required under *Lexecon*, 523 U.S. at 34.

SUBMISSION OF PLAINTIFF PERSONAL INJURY FACT SHEETS

10. The Court has approved a Short-Form PFS that includes document requests and a variety of written authorizations for the release of records (“Authorizations”). *See* Exhibit 1. Each Plaintiff must submit a completed Short-Form PFS, executed Authorizations, and documents responsive to the requests in the Short-Form PFS (“Responsive Documents”) pursuant to the terms of this Order.

11. A completed Short-Form PFS, which requires that each Plaintiff sign a Declaration under penalty of perjury, shall be considered to be interrogatory answers and responses to requests for production under the Federal Rules of Civil Procedure, and will be governed by the standards applicable to written discovery under the Federal Rules of Civil Procedure. Accordingly, MDL Defendants’ use of the Short-Form PFS is in lieu of interrogatories and other discovery devices that they would otherwise have propounded, without prejudice to MDL Defendants’ right to propound additional discovery as part of the bellwether trial program, in cases selected for trial, or upon remand of a case to its transferor court.

12. For cases that are directly filed in this judicial district and entered on the MDL 2543 docket on or before December 31, 2014, each Plaintiff must complete and submit a Short-Form PFS, applicable executed Authorizations, and Responsive Documents by January 16, 2015.

13. For cases the JPML transfers to MDL 2543 on or before December 31, 2014, each Plaintiff must complete and submit a Short-Form PFS, applicable executed Authorizations, and Responsive Documents by January 16, 2015. A case shall be deemed transferred to MDL 2543 either: (a) on the date the Clerk enters a certified copy of the JPML's Conditional Transfer Order on the docket of this Court, or (b) where transfer is contested, the date of transfer in any subsequent order from the JPML.

14. For cases that are directly filed in this judicial district and entered on the MDL 2543 docket on or after January 1, 2015, each Plaintiff must complete and submit a Short-Form PFS, applicable executed Authorizations, and Responsive Documents within forty (40) days after the complaint has been entered on the docket.

15. For cases the JPML transfers to this MDL on or after January 1, 2015, each Plaintiff must complete and submit a Short-Form PFS, applicable executed Authorizations, and Responsive Documents within forty (40) days after the case has been transferred to this Court.

16. Plaintiff's Short-Form PFS submission must be substantially complete, which means that a Plaintiff must:

- a. Answer all applicable questions in the Short-Form PFS (Plaintiff may answer questions in good faith by indicating "not applicable," "I don't know" or "unknown");
- b. Include a signed Declaration;
- c. Provide duly executed record release Authorizations; and

- d. Produce the documents requested in the Short-Form PFS, to the extent such documents are in Plaintiff's possession, custody, or control.

17. All objections to the admissibility of information contained in the Short-Form PFS are reserved, and therefore no objections shall be lodged in the responses to the questions and requests contained in the Short-Form PFS. This paragraph, however, does not prohibit a Plaintiff from withholding or redacting information based upon a recognized privilege. If a Plaintiff withholds or redacts any information on the basis of privilege, he or she shall provide the MDL Defendants with a privilege log.

18. Nothing in the Short-Form PFS shall be deemed to limit the scope of inquiry at depositions and admissibility of evidence at trial. The scope of inquiry at depositions shall remain governed by the Federal Rules of Civil Procedure. The Federal Rules of Evidence shall govern the admissibility of information contained in responses to the Short-Form PFS and no objections are waived by virtue of providing any Short-Form PFS response.

19. As set forth above, Authorizations together with copies of such records, to the extent that those records or copies thereof are in a Plaintiff's possession, custody, or control, shall be provided with the Short-Form PFS at the time that the Plaintiff is required to submit a Short-Form PFS pursuant to this Order.

20. In addition to the addressed Authorizations, Plaintiff's counsel shall also maintain in their file unaddressed, executed Authorizations. Plaintiff's counsel shall provide executed Authorizations to counsel for the MDL Defendants (or communicate an objection to said request for authorizations) within fourteen (14) days of a request for such Authorizations.

21. Undated Authorizations constitute permission for the MDL Defendants to date (and where applicable, re-date) Authorizations before sending them to records custodians. Should

Plaintiffs provide Authorizations that are dated, this shall not constitute a deficiency or be deemed to be a substantially non-complete Short-Form PFS.

22. If an agency, company, firm, institution, provider or records custodian to whom any Authorization is presented refuses to provide records in response to that Authorization, the MDL Defendants shall notify a Plaintiff's individual representative counsel. Should a particular form be required, Defendants will provide it to Plaintiff's individual representative counsel. The individual Plaintiff shall thereafter execute and return within fourteen (14) days that authorization the agency, company, firm, institution, provider, or records custodian requires.

23. The MDL Defendants or their designees shall have the right to contact agencies, companies, firms, institutions or providers to follow-up on record copying or production.

24. Any Plaintiff who fails to comply with his or her Short-Form PFS obligations under this Order may be subject to having his or her claims dismissed. If Plaintiff has not submitted a completed Short-Form PFS within fourteen (14) days following the due date set forth herein, the MDL Defendants shall send a Notice of Overdue Discovery to Plaintiff's counsel identifying the discovery overdue and stating that, unless the Plaintiff complies with the Court's discovery orders, the case may be subject to dismissal. If Plaintiff fails to submit a completed Short-Form PFS within fourteen (14) days after service of the Notice of Overdue Discovery, the MDL Defendants may move the Court for an Order dismissing the relevant Complaint without prejudice. Plaintiff shall have fourteen (14) days from the date of the MDL Defendants' motion to file a response either (a) certifying that the Plaintiff has submitted a completed Short-Form PFS or (b) opposing the MDL Defendants' motion for other reasons. If a Plaintiff certifies that he or she has submitted a completed Short-Form PFS, the Plaintiff's claims shall not be dismissed (unless the Court finds that the certification is false or incorrect).

25. If the Court dismisses a Complaint without prejudice under the previous paragraph, the Order will be converted to a Dismissal With Prejudice upon the MDL Defendants' motion — to be filed no earlier than thirty (30) days after the Court's entry of the Order of Dismissal without Prejudice — unless a Plaintiff submits a completed Short-Form PFS or moves to vacate the dismissal without prejudice within that same time period.

SELECTION OF THE INITIAL DISCOVERY POOL

26. The *Manual for Complex Litigation* notes that if bellwether trials “are to produce reliable information about other mass tort cases, the specific plaintiffs and their claims should be representative of the range of cases.” MANUAL FOR COMPLEX LITIGATION (Fourth) § 22.315 (Federal Judicial Center 2004); Rothstein, *et al.*, MANAGING MULTIDISTRICT LITIGATION IN PRODUCTS LIABILITY CASES: A POCKET GUIDE FOR TRANSFEREE JUDGES at 44 (Federal Judicial Center 2011) (“If bellwether trials are to produce reliable information about the other cases in the MDL, the specific plaintiffs and their claims should be representative of the range of cases.”).

27. There are multiple methods for selecting cases to populate the pool from which bellwether trials will be selected. For instance, some have suggested the cases be selected randomly. *See* MANUAL FOR COMPLEX LITIGATION (Fourth) § 22.315 (approving random selection methods). But the random-selection method has become increasingly disfavored for reasons explained by Judge Fallon:

Under the random-selection option, the trial-selection pool is filled with a prearranged number of cases selected randomly from the total universe of cases in the MDL or from various logical subsets of that group. This method is easy to perform, but it can be problematic. If cases are selected at random, there is no guarantee that the cases selected to fill the trial-selection pool will adequately represent the major variables.

Fallon, *et al.*, *Bellwether Trials in Multidistrict Litigation*, 82 TUL. L. REV. at 2348; *see also In re Yasmin & Yaz (Drospirenone) Marketing, Sales Practices & Prods. Liab. Litig.*, MDL No. 2100,

No. 09-MD-02100, 2010 WL 4024778, at *2 (S.D. Ill. Oct. 13, 2010) (“Most modern plans seem to disfavor random selection in order to have better control over the representative characteristics of the cases selected. . . . The Court finds that the process that will provide the best sampling of cases will be one that allows both sides of this litigation to have a role in selecting cases.”).

28. In this proceeding, the Court finds that the most effective process for populating the Initial Discovery Pool is to allow both Plaintiffs and MDL Defendants to play a role in selecting the cases. Accordingly, this Order sets forth the procedures for identifying eighteen (18) representative bellwether claims for the Initial Discovery Pool, from which the Early Trial Cases will later be drawn.

29. To facilitate efficient review of claim information, Lead Counsel shall place all Short-Form PFSs submitted by the deadline in an electronic and searchable database. Lead Counsel shall make the database available to counsel for the MDL Defendants by January 23, 2015.

30. Immediately after the electronic and searchable fact sheet database is made available to counsel for the MDL Defendants, Lead Counsel and counsel for the MDL Defendants will meet and confer regarding (a) the type of alleged defects that should be encompassed within the scope of the bellwether trial plan and (b) the categorization of claims in the plan. If the parties cannot reach agreement by January 28, 2015, they shall immediately — but in no event later than February 2, 2015 — present these issues to the Court for resolution.

31. Lead Counsel and counsel for the MDL Defendants shall meet and confer to discuss the process for (a) adding to the fact sheet database Short-Form PFSs that are submitted on or after January 17, 2015, and (b) Plaintiffs submitting amendments to previously submitted Short-Form PFSs.

32. It is important that the cases selected by the parties for inclusion in the Initial Discovery Pool be representative of the claims in the various categories agreed upon by the parties or, if necessary, determined by the Court. Further, the Initial Discovery Pool should contain a relatively equal number of representative claims from each category.

33. By 5 p.m. on February 17, 2015, Lead Counsel and counsel for the MDL Defendants will each file a list of nine (9) eligible Plaintiff's claims for inclusion in the Initial Discovery Pool. Lead Counsel and counsel for the MDL Defendants shall identify each claim by the named Plaintiff, MDL Docket Number, and provide the name of the Plaintiff's primary counsel.

34. For this bellwether trial plan to succeed, the cases selected as trial candidates must constitute a representative sampling of cases in this proceeding. To that end, the Court expects the parties to exercise good faith in selecting cases for potential inclusion in the Initial Discovery Pool, and not to select cases presenting unique or idiosyncratic facts or law that would render the results of these cases unenlightening. The Court cannot police this request and will not entertain applications regarding whether one side or another has abided by it. The Court merely sets forth its expectations.

35. For similar reasons, it is important for the parties to exhibit a willingness to waive venue and *forum non conveniens* challenges, including those issues outlined in *Lexecon*. The MDL Defendants and Plaintiffs, through their representative leaders, have expressed a willingness to waive such challenges. Accordingly, MDL Defendants have agreed to *Lexecon* waivers for all claims selected for inclusion in the Initial Discovery Pool. For all Plaintiffs selected by Lead Counsel for inclusion in the Initial Discovery Pool, it is understood that there shall be a *Lexecon* waiver for all those cases. For any Plaintiff selected by the MDL Defendants for inclusion in the

Initial Discovery Pool, if the Plaintiff selected is represented by Lead Counsel or their law firms, it is understood that there shall be a *Lexecon* waiver for that Plaintiff. If a Plaintiff selected by the MDL Defendants is not represented by Lead Counsel or their law firms, the Court recommends a *Lexecon* waiver and Lead Counsel will use best efforts to obtain such a waiver.

36. Any Plaintiff selected for the Initial Discovery Pool who (a) is not represented by Lead Counsel or their firms and (b) wishes to assert a *Lexecon* objection to his/her case being tried by the Court must file an objection in writing by February 24, 2015. If no objection is filed by the deadline, a Plaintiff will be deemed to have waived any rights under *Lexecon* and to have agreed to have his/her case tried by this Court.

37. If an objection is asserted and counsel for the MDL Defendants dispute that the objecting Plaintiff has a right to assert an objection under *Lexecon*, the parties will immediately — but in no event later than February 27, 2015 — present the issue to the Court for resolution. If the parties do not dispute the objection or if the Court sustains a Plaintiff's *Lexecon* objection, then the claim will be deemed removed from the Initial Discovery Pool. In that event, Defendants will have three (3) business days to select a replacement case.

38. *Lexecon* objections other than those for claims tried in the Court under the bellwether trial plan are preserved. Thus, if a claim in the Initial Discovery Pool is not selected for trial as an Early Trial Case, then the Court will restore the rights of the Plaintiff and the MDL Defendants in that claim to object to venue and jurisdiction in the Southern District of New York for purposes of trial.

39. The parties will replace duplicates from their respective lists as follows: Lead Counsel will replace the first duplicate, counsel for the MDL Defendants will replace the next

duplicate, and so on in alternating turns until all duplicates have been resolved and a full list of eighteen (18) cases is achieved. The deadline to replace all duplicates is February 20, 2015.

40. The parties shall meet and confer if a dispute arises over whether any of the selected claims are eligible for inclusion in the Initial Discovery Pool. If the parties are unable to resolve the dispute in good faith, the parties will immediately — by in no event later than February 23, 2014 — present the issue to the Court for resolution.

41. If a Plaintiff selected for the Initial Discovery Pool voluntarily settles his/her case on or before April 16, 2015, Lead Counsel will have the option to select a replacement case within three (3) business days. If a Plaintiff selected for the Initial Discovery Pool voluntarily dismisses his/her case on or before April 16, 2015, counsel for the MDL Defendants will have the option to select a replacement case within three (3) business days. (The parties shall meet and confer to discuss whether cases selected for the Initial Discovery Pool that are voluntarily settled or dismissed after April 16, 2015, should be replaced and, if so, how. The parties should include that issue on their proposed agenda for a status conference at the appropriate time.)

42. Case-specific core fact discovery of Plaintiffs in the Initial Discovery Pool will commence on February 18, 2015.³ (The Court recognizes that the final composition of the Initial Discovery Pool may not be settled as of that date, in light of the potential for duplicate selections

³ In their proposed bellwether orders, the parties included provisions requiring the eighteen Plaintiffs in the Initial Discovery Pool to submit supplemental fact sheets to be agreed upon by the parties. Although those provisions may have been included based on comments made by the Court at the November 6, 2014 status conference, the Court does not think that they are necessary or advisable. Instead, upon reflection, the Court believes that it makes more sense to begin case-specific core fact discovery immediately upon selection of the Initial Discovery Pool rather than providing time for an intermediate step. To the extent that the MDL Defendants need or want additional information from the Plaintiffs chosen for the Initial Discovery Pool that would have been in the supplemental fact sheet, they may seek it through case-specific discovery in the ordinary course.

and *Lexecon* objections. Nevertheless, the Court does not believe that that is a reason to delay the beginning of core fact discovery.) Among other things, case-specific fact discovery may consist of (a) additional document requests beyond those in the Short-Form PFS; (b) a deposition of Plaintiff; (c) depositions of treating physicians or medical providers; and (d) depositions of witnesses to the incident that is the subject of the claim. Case-specific core fact discovery of Plaintiffs in the Initial Discovery Pool shall conclude no later than June 22, 2015.

43. As directed by Order No. 20, the parties are operating under the Phase One Discovery Plan, the scope of which is limited to NHTSA Recall Campaign Numbers 14V346, 14V355, 14V394, 14V400, 14V490, 14V540, and 14V153. Under Order No. 20, New GM is to begin a rolling production of Phase One Discovery documents by December 22, 2014, and will make reasonable efforts to substantially complete its production by May 5, 2015. The parties, the MDL Court, and the courts in the Coordinated Actions desire to minimize the expense and inconvenience of this litigation by, as a general rule, providing for a single deposition of any witness. Accordingly, unless the Court orders otherwise for good cause shown, depositions of former or current employees or officers of New GM or Old GM will start after New GM has substantially completed its Phase One document production. The parties shall meet and confer, however, regarding whether some depositions may be taken at an earlier time. If the parties are unable to reach an agreement, the issue shall be presented to the Court for resolution.

IDENTIFYING AND SELECTING EARLY TRIAL CASES

44. By 5 p.m. on June 24, 2015, Lead Counsel and counsel for the MDL Defendants will each file a list of five (5) eligible Plaintiff claims from the Initial Discovery Pool for inclusion on a list of potential early trial candidates. Lead Counsel and counsel for the MDL Defendants

should identify each claim by the named Plaintiff, MDL Docket Number, and provide the name of the Plaintiff's primary counsel.

45. The parties will replace duplicates from their respective lists as follows: Lead Counsel will replace the first duplicate, counsel for the MDL Defendants will replace the next duplicate, and so on in alternating turns until all duplicates have been resolved and each list contains five (5) cases. The deadline to replace all duplicates is June 26, 2015.

46. By 5 p.m. on July 1, 2015, Lead Counsel will exercise two (2) strikes against the five (5) early trial candidates selected by the MDL Defendants, and counsel for the MDL Defendants will exercise two (2) strikes against the five (5) early trial candidates selected by Lead Counsel. The remaining six (6) cases — three from each list — will constitute the final set of Early Trial Cases to proceed to case-specific expert discovery.

EXPERT DISCOVERY FOR EARLY TRIAL CASES

47. Expert discovery for the Early Trial Cases shall proceed as follows:

- Lead Counsel shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before July 29, 2015; and
- Counsel for the MDL Defendants shall disclose expert witnesses and submit any reports required under Fed. R. Civ. P. 26(a)(2)(B) on or before September 21, 2015.

48. Pursuant to F.R.E. 26(b)(4), “[a] party may depose any person who has been identified as an expert whose opinions may be presented at trial.” Accordingly, Lead Counsel shall present their experts for deposition by September 14, 2015, and counsel for the MDL Defendants shall present their experts for deposition by November 5, 2015. All expert and fact discovery shall be completed by no later than November 5, 2015.

SCHEDULING THE EARLY TRIAL CASES

49. By July 15, 2015, Lead Counsel and counsel for the MDL Defendants shall each submit letter briefs proposing the order of trials and setting forth the parties' supporting rationales for their proposed orders. The Court will then designate the order of the Early Trial Cases.

50. The first Early Trial Case ("MDL Bellwether Trial #1") will start on January 11, 2016. The parties shall submit any *Daubert* motions, any dispositive motions, and any motions *in limine* for MDL Bellwether Trial #1 by November 10, 2015. Unless the Court grants leave to do otherwise, each side shall file no more than a single memorandum of law in support of its *Daubert* motion(s) and a single memorandum of law in support of its motions *in limine*. Any opposition to a *Daubert* or dispositive motion shall be filed by December 1, 2015; any reply shall be filed by December 7, 2015. Unless the Court orders otherwise, memoranda shall comply with the page limits and other requirements set forth in this Court's Local Rules.

51. The Court will issue one or more additional Orders scheduling the pretrial deadlines and dates for the remaining Early Trial Cases. The Court is aware that *Melton v. General Motors LLC, et al.*, Case No. 14-1197-4 (Ga. St. Ct.), is currently scheduled for trial in Cobb County, Georgia, in February 2016. If a state court in a Related or Coordinated Action schedules a trial to commence in 2016, the parties shall immediately notify the Court. The Court will then coordinate with the applicable state courts and, if warranted, adjust the trial dates for the remaining Early Trial Cases.

52. The January 11, 2016 trial date for Bellwether Trial #1 will not be changed absent extraordinary circumstances. The other deadlines set forth herein are subject to change for good

cause shown, except that the parties shall confer before making any application to change any deadline set forth herein.

SO ORDERED.

Dated: November 19, 2014
New York, New York



JESSE M. FURMAN
United States District Judge

EXHIBIT 1

UNITED STATES DISTRICT COURT	14-MD-2543 (JMF)
SOUTHERN DISTRICT OF NEW YORK	
IN RE: GENERAL MOTORS, LLC IGNITION SWITCH LITIGATION	14-MC-2543 (JMF)
THIS DOCUMENT RELATES TO: [NAME: _____]	Case No. [_____]

**PLAINTIFF FACT SHEET
CASE INFORMATION**

Prefatory Statement

Plaintiff has not fully completed investigation of the facts relating to this claim, and has not completed all necessary discovery or preparation for trial. All of the responses contained herein are based only upon such information and documents that are presently available to and specifically known to Plaintiff and Plaintiff's counsel, agents, and representatives, and disclose only those contentions known or reasonably available to Plaintiff and Plaintiff's counsel, agents and representatives. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, and establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the responses and contentions set forth herein.

The following responses are given without prejudice to Plaintiff's right to produce evidence of any facts Plaintiff may later become aware of or recall. Plaintiff accordingly reserves the right to change, amend, or add to any and all responses herein as additional facts are ascertained, analyses are made, legal research is completed, memories are recalled, and contentions are made. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of factual and legal contentions as are presently known, but should in no way be to the prejudice of Plaintiff or Defendants in relation to further discovery, research or analysis or in any future lawsuit. Plaintiff has an affirmative duty to supplement or correct a response in a timely manner if Plaintiff learns that in some material respect the response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to Defendants during the discovery process or in writing. In such a circumstance, Plaintiff agrees to timely file an amendment to this Fact Sheet.

Plaintiff provides the responses herein with the understanding that Plaintiff's responses will be governed by Order No. 10—Protecting Confidentiality and Privileged Materials—entered on 9/10/2014 in this litigation. [See Dkt. No. 294]

Definitions

A. “Subject Vehicle” is defined as the vehicle that serves as the basis for Plaintiff’s claim in this matter.

B. “Subject Incident” is defined as the Ignition-Switch Related Event involving the Subject Vehicle that is the basis for Plaintiff’s claim in this matter.

C. “Ignition-Switch Related Event” includes, but is not limited to, an incident where the Subject Vehicle’s ignition switch moved from the “run” position to “accessory” position (or otherwise moved out of the “run” position) resulting in a partial loss of electrical power, the vehicle’s engine turning off, a loss of power steering, and/or a failure of the airbags to deploy.

The following questions are to be treated as interrogatories pursuant to Federal Rules of Civil Procedure, Rule 33, and are subject to Rules 26 and 37.

I. BASIC INFORMATION

1. Name of individual completing this Fact Sheet:
2. Date of Birth:
3. Address:
4. Are you completing this Fact Sheet in a representative capacity (*e.g.*, on behalf of the estate of a deceased person, an incapacitated individual, or a minor injured in the Subject Incident on which this case is based)?

Yes ☐ No ☐

5. If you are completing this Fact Sheet in a representative capacity, identify the person(s) represented by name, date of birth, gender, and address:

Name	DOB	Gender	Address

6. What is your relationship to the individual you represent?
7. Were you appointed by a court?

Yes ☐ No ☐
8. If you represent a decedent’s estate, state the decedent’s date of death.
9. If you represent a decedent’s estate, do you contend the Subject Incident caused the decedent’s death?

10. If you represent a decedent's estate, identify the decedent's surviving spouse, parents, and children and provide their addresses (or the addresses of their attorneys, if applicable) and the age of any surviving children.

For the remaining questions of the fact sheet, "you" or "your" means the person injured in the Subject Incident on which this claim is based.

[Note: If you are completing this Fact Sheet in a representative capacity, please respond to the remaining questions with respect to the person who was injured in the Subject Incident. If the individual is deceased, please respond as of the time immediately before his or her death unless a different time period is specified.]

II. PERSONAL INFORMATION

11. Your Name:
12. Male ☐ Female ☐
13. Age at time of Subject Incident:
14. Date of birth:
15. Social Security Number:
16. Driver's License Number/State of Issuance/Date of First Issuance:
17. List your current address and the period you have resided at the location:

Current Address	Dates

18. Marital Status: Are you currently married?
- Yes ☐ No ☐
- If yes, please identify your current spouse.
19. Were you married at the time of the Subject Incident?
- Yes ☐ No ☐
20. Is your spouse pursuing a loss of consortium claim?
- Yes ☐ No ☐

If you answered “Yes,” please identify your spouse’s name, date of birth, and occupation:

Spouse’s Name	Date of Birth	Occupation

21. If your spouse is pursuing a loss of consortium claim, please state whether you and your spouse have ever lived apart during your marriage or filed for separation or divorce.

III. PREVIOUS LEGAL MATTERS

22. Within the past ten (10) years, have you been convicted of, or pled guilty to, a felony or completed serving a sentence for a felony conviction?

Yes ☐ No ☐

23. Within the past ten (10) years, have you been convicted of, or pled guilty to, a misdemeanor involving lying, false statements, cheating, fraud, or dishonesty?

Yes ☐ No ☐

If you answered “yes” to question no. 22 and/or 23, please identify the charge for which you were convicted (or pled guilty to), the court in which you were convicted or entered the plea, the criminal action number assigned to the matter, and the sentence imposed.

24. Within the past ten (10) years, have you filed a lawsuit or made a claim involving personal injuries other than this case?

Yes ☐ No ☐

If you answered “yes,” please identify the Court, the case name, names of adverse parties, civil action number if filed, and state how the matter was resolved.

25. Within the past ten (10) years, have you submitted a workers’ compensation claim, social security claim, or any other form of disability claim for injuries *to the part(s) of your body that you claim was injured in the Subject Incident*?

Yes ☐ No ☐

If you answered “yes,” please list the claims submitted, the entity with which the claim was filed, the year and location where the claim was filed, the claim number, nature of the disability, period of disability, and the status of the claim.

26. Other than this case, have you or has someone on your behalf made a claim or filed a lawsuit concerning the Subject Incident or the injuries and damages you claim to have sustained as a result of the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please identify the other persons or entities against whom the claim was made or lawsuit was filed, the date of the claim or lawsuit, where the claim or lawsuit was filed and the status of the claim or lawsuit.

IV. VEHICLE INFORMATION

27. Subject Vehicle Model Year, Brand/Make, Model, and Trim Level:
28. Subject Vehicle’s Vehicle Identification Number (VIN):
29. Date of purchase:
30. Did you purchase the Subject Vehicle new or used?
31. Name and address of dealer/seller:
32. State where the Subject Vehicle is currently located and who has possession of it.
33. Is the Subject Vehicle available for inspection?
Yes ☐ No ☐
34. Has the Subject Vehicle’s Sensing and Diagnostic Module (“SDM”) been downloaded at any time following the Subject Incident?
Yes ☐ No ☐

If you answered “yes,” please identify the step-by-step process used to download the SDM data, including, but not limited to, the person performing the download of the data and the date such download occurred.

35. Has the SDM ever been removed from the Subject Vehicle?
Yes ☐ No ☐ Don't Know ☐

If you answered “yes,” please identify who removed the module, when the module was removed, and where the module is currently located.

36. Identify, to your knowledge, all persons who have inspected and/or photographed the Subject Vehicle since the Subject Incident.

V. MAINTENANCE HISTORY

37. To your knowledge, has the Subject Vehicle’s ignition switch ever been repaired and/or serviced?

Yes ☐ No ☐

If you answered “yes,” please describe the repair or service performed, when it was performed, and who performed it.

38. To your knowledge, has the Subject Vehicle’s airbag(s) or its components ever been repaired and/or replaced?

Yes ☐ No ☐

If you answered “yes,” please describe the repair or service performed, when it was performed, and who performed it.

VI. INCIDENT INFORMATION

39. Do you claim to have experienced an Ignition-Switch Related Event in the Subject Vehicle?

Yes ☐ No ☐

If you answered “yes,” please state how many Subject Incidents you claim to have experienced.

40. With respect to the first, or earliest, Subject Incident you experienced:

- a. What date and time did it happen?
- b. Were you driving the Subject Vehicle during the Subject Incident?

Yes ☐ No ☐

If you answered “no,” please provide the name, age, and current address of the driver, and relationship to you.

- c. If the driver of the Subject Vehicle had a cellular telephone and/or other mobile communications device in the vehicle during the Subject Incident, please provide the telephone number(s) and service provider(s) for the device(s).
- d. State whether the driver of the Subject Vehicle consumed any prescription medication, non-prescription medication or drugs, or alcoholic beverage in the 24 hours before the Subject Incident and identify the substance and amount consumed.
- e. Did the driver of the Subject Vehicle submit to any drug or alcohol testing following the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please describe the testing performed and the results of the testing.

- f. Describe all items on the key chain attached to the key in the Subject Vehicle’s ignition switch at the time of the Subject Incident.
- g. Describe the location of the Subject Incident, including, but not limited to, the surroundings, terrain, and the highway, street or parking lot or address where it happened.
- h. Describe the lighting, weather, and road conditions (e.g., daylight, rainy, wet, icy, dry) during the Subject Incident.
- i. Indicate the length of time and distance the Subject Vehicle travelled off the roadway during the Subject Incident, if applicable.
- j. Was there a collision?

Yes ☐ No ☐

If you answered “yes,” please describe the portion of the Subject Vehicle that collided with or struck any other object during the Subject Incident.

- k. Did the Subject Incident involve a rollover event?

Yes ☐ No ☐

If you answered “yes,” describe the rollover event, whether the rollover occurred on road or off road, whether it was a passenger’s side or driver’s side leading roll, and whether the Subject Vehicle struck any object before, during, or after the roll.

- l. Did emergency responders arrive on scene?

Yes ☐ No ☐

If you answered “yes,” please identify the responding agency and the incident or report number documenting their response to this incident.

- m. Was anyone injured?

Yes ☐ No ☐

- n. Was any property damaged, including, but not limited to, the vehicles involved?

Yes ☐ No ☐

If you answered “yes,” please identify the property damaged and describe the damage, including the total of any repair estimate and whether any repairs were made to the vehicle as a result thereof.

- o. Is there a police report concerning the incident?

Yes ☐ No ☐

If you answered yes, please identify the police agency and the incident/report number relating to the incident.

- p. Were any photographs taken of accident scene, the Subject Vehicle, and/or the vehicle’s occupants?

Yes ☐ No ☐

- q. Describe what happened, including the vehicle’s approximate speed when the Subject Incident began (and/or the gear the vehicle was in), any and all inputs (steering, braking, etc.) the driver made to the vehicle during the Subject Incident, the response of the vehicle, and the outcome.

- r. Did the vehicle’s airbag(s) deploy during the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please state which airbags deployed.

- s. Were you wearing a seat belt at the time of the Subject Incident?

Yes ☐ No ☐

- t. Was any occupant of the Subject Vehicle fully or partially ejected during the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please explain.

- u. Identify any citations or tickets that were issued following the Subject Incident.

- v. Did you take the Subject Vehicle to a dealership or service facility after the Subject Incident to address the Ignition-Switch Related Event?

Yes ☐ No ☐

If you answered “yes,” please identify the dealership or service facility, the date of service, and describe what work was done to the Subject Vehicle, anything you

were told about the Subject Vehicle and/or the Ignition-Switch Related Event, and identify all documentation associated therewith.

41. For each additional such Ignition-Switch Related Event you experienced, please answer question(s) 40(a)-(v) on a separate page and attach to the end of your Fact Sheet responses.
42. Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or contributed to the Subject Incident(s) and the basis for your assertions of same.
43. Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or contributed to your alleged injuries and the basis for your assertions of same.
44. Do you claim that the Subject Vehicle experienced a “moving stall” or otherwise lost engine power, and that this caused a loss of vehicle control during the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please state each fact that supports that claim, identify any fact witness(es) who support that claim, and provide summary of their anticipated testimony.

45. Do you claim that a loss of power steering occurred because the ignition switch moved out of the “run” position?

Yes ☐ No ☐

If you answered “yes,” please state each fact that supports that claim, identify any fact witness(es) who support that claim, and provide summary of their anticipated testimony.

46. Do you claim that a loss of power assist brakes occurred because the Ignition Switch moved out of the “run” position?

Yes ☐ No ☐

If you answered “yes,” please state each fact that supports that claim, identify any fact witness(es) who support that claim, and provide summary of their anticipated testimony.

47. Do you claim that any of the Subject Vehicle’s airbag systems failed to deploy during the Subject Incident because the Ignition Switch moved out of the “run” position?

Yes ☐ No ☐

If you answered “yes,” please state each fact that supports that claim, identify any fact witness(es) who support that claim, and provide summary of anticipated testimony.

VII. INJURY INFORMATION

48. For each Subject Incident in which you allegedly sustained a personal injury, please describe your injuries and how they were sustained.

49. Did the injuries you allegedly sustained during the Subject Incident result in hospitalization?

Yes ☐ No ☐

50. Please identify all facilities, agencies, hospitals, physicians, therapists, and other medical professionals who provided treatment for the injuries you allegedly sustained during the Subject Incident, as well as the dates of treatment:

Medical Provider	Dates of Service

51. For each Subject Incident in which someone other than you was injured, please identify the person, and to the extent you have knowledge, identify the type or nature of injuries allegedly sustained, and the names of any agencies, hospitals, or physicians who treated the injured party.

VIII. CURRENT OR PRIOR MEDICAL CONDITIONS

52. Other than the injuries allegedly sustained in the Subject Incident, between the date of the Subject Incident and the present, have you sustained any physical injuries, illnesses, or disabilities that have resulted in lost income or medical expenses?

Yes ☐ No ☐

If you answered “yes,” please identify the injury, illness, disability, symptoms, date(s) of onset, date(s) of diagnoses and by whom it was first diagnosed.

53. During the three (3) year period before the Subject Incident, did you sustain any physical injuries, illnesses, or disabilities that resulted in lost income or medical expenses?

Yes ☐ No ☐

If you answered “yes,” please identify the injury, illness, disability, symptoms, date(s) of onset, date(s) of diagnoses and by whom it was first diagnosed.

IX. DAMAGES CLAIMS - PERSONAL INJURY

54. Lost Wages/Loss of Earning Capacity: Are you claiming or do you expect to claim that you lost earnings or suffered an impairment of your earning capacity as a result of any condition you claim resulted from the Subject Incident?

Yes ☐ No ☐

If you answered “yes,” please provide the following information with respect to each of your places of employment for the past ten (10) years:

Dates	Employer Name and Address	Job Title and Nature of Responsibilities	Annual Income and Benefits

55. Total number of days you missed from work allegedly because of injuries sustained during the Subject Incident.
56. Please identify whether you received any disability, medical leave, or other income for those days you missed allegedly due to your injuries and, if so, the type and amount of such income.
57. Please identify whether you expect to return to employment following recovery from your injuries claimed as a result of the Subject Incident. Please identify when your return is expected, whether you are expected to return to the same or similar job, and the number of hours per week you expect to be working.
58. If you do not expect to return to work, please explain why you are no longer able to work and whether same was confirmed by any medical professional. Please identify the medical professional who limited your ability to work.
59. If you are claiming an impairment of your earning capacity, identify the impairment and the health care provider who diagnosed it.
60. What is the amount of medical expenses you claim to have incurred as a result of the Subject Incident?

DOCUMENT REQUESTS

The following requests are to be treated as requests for the production of documents pursuant to Federal Rule of Civil Procedure, Rule 34, and are subject to Rule 37.

The responding party shall produce into the MDL 2543 Document Depository, within thirty (30) days of the date of service of this Fact Sheet, any of the following documents that are in the responding party's possession, custody or control:

1. Copies of all documents relating to the purchase or lease of the Subject Vehicle and reflecting any repair, inspection, service, recall service, alteration or modifications of the Subject Vehicle.
2. Copies of the data downloaded from the Subject Vehicle's SDM.
3. Copies of all accident, incident or investigative reports (other than documents created by your counsel or at your counsel's request) regarding the Subject Incident or the Subject Vehicle prepared by any responding agency or third party, and documents reflecting citations issued by any police agency or governmental agency relating to the Subject Incident.
4. Copies of all towing records related to the towing of the Subject Vehicle as a result of the Subject Incident.
5. Copies of all photographs, videotapes, or digital images taken of the Subject Vehicle or any part of the Subject Vehicle before, during, and/or after the Subject Incident.
6. Copies of all photographs, videotapes or digital images taken of the injuries you claim to have sustained in the Subject Incident (other than documents created by your counsel or at your counsel's request).
7. Copies of all electronic data and/or electronic surveys taken and/or related to the accident scene.
8. Any written and/or recorded statements that you gave (other than privileged communications or work product) regarding the Subject Vehicle, the Subject Incident, or your claimed injuries.
9. Copies of all post-Subject Incident test results for the presence of alcohol or drugs in the individual driving the Subject Vehicle during the Subject Incident.
10. Copies of any written statements given to any police officer, fireman, fire investigator, or any other public agency or entity regarding the Subject Incident.
11. All photographs and videos portraying or documenting injuries allegedly sustained as a result of the Subject Incident, including any "day in the life," therapy, or recovery video.
12. Copies of all documents and photographs regarding media coverage of the Subject Incident and/or your injuries allegedly sustained as a result thereof.
13. Copies of any available medical and pharmacy records, medical x-rays and images, charts, reports, nursing notes, therapy notes, and billing records for medical treatment you received for the injuries you claim were sustained in the Subject Incident.

14. Copies of any available medical and pharmacy records, medical x-rays and images, charts, reports, nursing notes, therapy notes, and billing records for medical treatment you received during the three (3) year period before the Subject Incident.
15. Copies of any documents related to insurance, including claims you submitted and policies you had in effect as of the date of the Subject Incident that covered or may cover you, the Subject Vehicle, or the property on which the Subject Incident occurred.
16. Copy of the death certificate, autopsy reports, and funeral and burial expenses if plaintiff claims the injured person died as a result of the Subject Incident.

SIGNED AUTHORIZATIONS

Plaintiff agrees to produce into the MDL 2543 Document Depository *original signed authorizations* within thirty (30) days of the date of service of this Fact Sheet for the release of relevant medical records, and to the extent a claim for lost wages is made, the release of relevant employment and financial records, including tax authorizations, social security authorizations, authorizations for the release of educational records, and Medicare/Medicaid disclosure forms. Plaintiff agrees to provide current authorizations as necessary. Plaintiff agrees that any document request above for medical and/or employment and/or financial records to be produced by Plaintiff will not preclude Defendants from also collecting such records directly from the source pursuant to the signed authorizations.

DECLARATION

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all the information provided in this Fact Sheet is true and correct to the best of my knowledge, information and belief formed after a reasonable inquiry. I understand that I am under an obligation to supplement these responses.

Date: _____

Signature _____

Name _____

Exhibit A

(Healthcare Authorization)

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION
(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO: _____

Patient's Name: _____

Former/Alias/Maiden Name of Patient _____

Patient's Date of Birth: _____

Patient's Social Security Number: _____

I, _____, hereby authorize you to release and furnish to _____ and/or their duly assigned agents, including _____ copies of the following information:

- All medical records, including inpatient, outpatient, and emergency room treatment, physician's records, surgeon's records, physical information, operating room records, discharge summaries, progress notes, patient intake forms, nurses' notes, therapists' notes, social worker's records, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctor's handwritten notes, and records received by other physicians.
- All autopsy, laboratory, histology, cytology, pathology, immunohistochemistry radiology, nuclear medicine, radiation therapy, CT Scan, MRI, echocardiogram and cardiac catheterization reports.
- Copies of x-rays, mammograms, myelograms, CT scans, MRI films, photographs, bone scans, and any other radiological, nuclear medicine or radiation therapy films, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos.
- All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- All billing records, including all statements of account, itemized bills, invoices, and insurance records, relating to any examination, diagnosis, treatment, periods of hospitalization, or stays of confinement.

1. To my medical provider: **this authorization is being forwarded by, or on behalf of, attorneys for the defendants for the purpose of civil litigation. You are not authorized to discuss any aspect of the above named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.**

2. I expressly request that all covered entities under HIPAA identified above disclose full and complete protected medical information. I understand that the information in my health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization I must do so in writing to _____. I understand the revocation will not apply to information that has already been released in response to this

authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire three years after the date of signature of the undersigned below.

4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in CFR 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.

5. A notarized signature is not required. CFR 164.508. A copy of this authorization may be used in place of an original.

6. I have read this Authorization and understand it will permit the entity identified above to disclose protected health information to [REDACTED].

Dated: _____

Signature of Patient or Personal Representative

Printed Name of Patient or Personal Representative

If Personal Representative, Description of Authority

Exhibit B

(IRS Forms – see attached)

Exhibit C

(Employment Authorizations)

**HIPAA COMPLIANT AUTHORIZATION FORM PURSUANT TO 45 CFR 164.508
EMPLOYMENT AUTHORIZATION**

TO: _____
Name of Employer

Address, City State and Zip Code

Re:

Date of Birth: _____ Social Security Number: _____

Address: _____

I authorize the disclosure of my employment records including any medical information protected by HIPAA, 45 CFR 164.508, for the purpose of review and evaluation in connection with a legal claim. I expressly request that all entities identified above disclose full and complete records including the following:

This will authorize you to furnish copies of all applications for employment; resumes; records of all positions held; job descriptions of positions held; wage and income statements and for compensation records; wage increases and decreases; performance evaluations, reviews and reports; transfers, statements and comments of fellow employees; all documents relating to discipline including warnings, reprimands, suspensions, terminations, and all other forms of discipline; attendance records; IRS Form W-2s, worker's compensation files; all medical records, x-rays and test results; any physical examination records; all documents relating to my absences, illnesses and injuries; any records pertaining to claims made relating to health, disability or accidents in which I was involved including correspondence, reports, claim forms, questionnaires, records of payments made to me or on my behalf; and any other records relating to my employment and for in my personnel file.

Information about HIV/AIDS and alcohol substance abuse may be disclosed.

I authorize you to release the information to:

Name (Records Requestor)

Street Address City State and Zip Code

I intend that this authorization shall be continuing in nature. If information responsive to this authorization is created, learned or discovered at any time in the future, either by you or another party, you must produce such information to the Records Requestor at that time.

I acknowledge the right to revoke this authorization by writing to you at the above referenced address. However, I understand that any actions already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions. I understand that the entity to which this authorization is directed may not condition treatment, payment, enrollment or eligibility benefits on whether or not I sign the authorization. Any facsimile, copy or photocopy of the authorization shall authorize you to release the records herein.

This authorization expires three years after the date of signature of the undersigned below.

Dated: _____

Signature of Employee or Personal Representative

Printed Name of Employee or Personal Representative

If Personal Representative, Description of Authority

Exhibit D

(Disability Authorizations)

**AUTHORIZATION FOR RELEASE OF
DISABILITY CLAIMS RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all records of disability claims of any sort, including, but not limited to, statements, applications, disclosures, correspondence, notes, settlements, agreements, contracts or other documents, concerning:

Name of Claimant

whose date of birth is _____ and whose social security number is _____.

You are authorized to release the above records to the following company, which has agreed to pay reasonable charges made by you to supply copies of such records.

Name of Company

Records Requester

**Representative Capacity (e.g., attorney, records
requestor, agent, etc.)**

Street Address

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Dated: _____

Signature of Claimant or Personal Representative

Printed Name of Claimant or Personal Representative

If Personal Representative, Description of Authority

Exhibit E

(Education Authorizations)

**AUTHORIZATION FOR RELEASE OF
EDUCATIONAL RECORDS**

To: _____
Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all school records including, but not limited to, test results, test scores, report cards, or other school grading material, attendance records, physicals and other health-related records, including but not limited to any physicians, nursing or allied health professional reports, records or notes, that may be in your possession

Name of Student

whose date of birth is _____ and whose social security number
is _____.

You are authorized to release the above records to the following company, which has agreed to pay reasonable charges made by you to supply copies of such records.

Name of Company

Records Requester
**Representative Capacity (e.g., attorney, records
requestor, agent, etc.)**

Street Address

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Dated: _____

Signature of Student or Personal Representative

Printed Name of Student or Personal Representative

If Personal Representative, Description of Authority

Exhibit F

(Insurance Authorizations)

**AUTHORIZATION FOR RELEASE OF
INSURANCE RECORDS**

To: _____
Name

Address

City, State and Zip Code

This will authorize you to furnish copies of all forms regarding insurance claims applications and benefits and all medical, health, hospital, physicians, nursing or allied health professional reports, records, notes or invoices and bills, which may be in your possession.

Name of Insured

whose date of birth is _____ and whose social security number
is _____.

You are authorized to release the above records to the following company, which has agreed to pay reasonable charges made by you to supply copies of such records.

Name of Company

Records Requester

**Representative Capacity (e.g., attorney, records
requestor, agent, etc.)**

Street Address

City, State and Zip Code

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as through the original had been presented to you.

Dated: _____

Signature of Insured or Personal Representative

Printed Name of Insured or Personal Representative

If Personal Representative, Description of Authority

Exhibit G

(Federal Disclosure)

Federal Disclosure Requirements
(required by 42 U.S.C. § 1395y(b)(7) and (b)(8))

Defendants may be required to report to the federal government certain information to fulfill Medicare Secondary Payer Act reporting requirements. Please complete the following form.

Full Legal Name: _____

Date of Birth: _____

Gender: _____

Social Security Number: _____

Health Insurance
Claim Number (HICN): _____

Are you eligible to receive Medicare benefits?

Yes _____

No _____

If so, on what date did you become eligible to receive Medicare benefits?

Form **4506-T**
(Rev. August 2014)
Department of the Treasury
Internal Revenue Service

Request for Transcript of Tax Return

OMB No. 1545-1872

▶ Request may be rejected if the form is incomplete or illegible.
▶ For more information about Form 4506-T, visit www.irs.gov/form4506t.

Tip. Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Get Transcript of Your Tax Records" under "Tools" or call 1-800-908-9946. If you need a copy of your return, use **Form 4506, Request for Copy of Tax Return**. There is a fee to get a copy of your return.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return.	2b Second social security number or individual taxpayer identification number if joint tax return
3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)	
4 Previous address shown on the last return filed if different from line 3 (see instructions)	
5 If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.	

Caution. If the tax transcript is being mailed to a third party, ensure that you have filled in lines 6 through 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your tax transcript to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your transcript information, you can specify this limitation in your written agreement with the third party.

6 Transcript requested. Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶ 1040

a Return Transcript, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days ☒

b Account Transcript, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 10 business days ☒

c Record of Account, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. Available for current year and 3 prior tax years. Most requests will be processed within 10 business days ☒

7 Verification of Nonfiling, which is proof from the IRS that you **did not** file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days ☒

8 Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript. The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2011, filed in 2012, will likely not be available from the IRS until 2013. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 10 business days ☒

Caution. If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately. 12/31/2010 12/31/2011 12/31/2012 12/31/2013

Caution. Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, at least one spouse must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note.** For transcripts being sent to a third party, this form must be received within 120 days of the signature date.

Sign Here	Signature (see instructions)	Date	Phone number of taxpayer on line 1a or 2a
	Title (if line 1a above is a corporation, partnership, estate, or trust)		
	Spouse's signature	Date	

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about Form 4506-T and its instructions, go to www.irs.gov/form4506t. Information about any recent developments affecting Form 4506-T (such as legislation enacted after we released it) will be posted on that page.

General Instructions

Caution. Do not sign this form unless all applicable lines have been completed.

Purpose of form. Use Form 4506-T to request tax return information. You can also designate (on line 5) a third party to receive the information. Taxpayers using a tax year beginning in one calendar year and ending in the following year (fiscal tax year) must file Form 4506-T to request a return transcript.

Note. If you are unsure of which type of transcript you need, request the Record of Account, as it provides the most detailed information.

Tip. Use Form 4506, Request for Copy of Tax Return, to request copies of tax returns.

Automated transcript request. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Get Transcript of Your Tax Records" under "Tools" or call 1-800-908-9946.

Where to file. Mail or fax Form 4506-T to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual transcripts (Form 1040 series and Form W-2) and one for all other transcripts.

If you are requesting more than one transcript or other product and the chart below shows two different addresses, send your request to the address based on the address of your most recent return.

Chart for individual transcripts (Form 1040 series and Form W-2 and Form 1099)

If you filed an individual return and lived in:

Mail or fax to:

Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or A.P.O. or F.P.O. address

Internal Revenue Service
RAIVS Team
Stop 6716 AUSC
Austin, TX 73301

512-460-2272

Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming

Internal Revenue Service
RAIVS Team
Stop 37106
Fresno, CA 93888

559-456-7227

Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia

Internal Revenue Service
RAIVS Team
Stop 6705 P-6
Kansas City, MO 64999

816-292-6102

Chart for all other transcripts

If you lived in or your business was in:

Mail or fax to:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, a foreign country, or A.P.O. or F.P.O. address

Internal Revenue Service
RAIVS Team
P.O. Box 9941
Mail Stop 6734
Ogden, UT 84409

801-620-6922

Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin

Internal Revenue Service
RAIVS Team
P.O. Box 145500
Stop 2800 F
Cincinnati, OH 45250

859-669-3592

Line 1b. Enter your employer identification number (EIN) if your request relates to a business return. Otherwise, enter the first social security number (SSN) or your individual taxpayer identification number (ITIN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

Line 3. Enter your current address. If you use a P. O. box, include it on this line.

Line 4. Enter the address shown on the last return filed if different from the address entered on line 3.

Note. If the address on lines 3 and 4 are different and you have not changed your address with the IRS, file Form 8822, Change of Address. For a business address, file Form 8822-B, Change of Address or Responsible Party—Business.

Line 6. Enter only one tax form number per request.

Signature and date. Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the information be sent to a third party, the IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer or it will be rejected. Ensure that all applicable lines are completed before signing.

Individuals. Transcripts of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506-T exactly as your name appeared on the original return. If you changed your name, also sign your current name.

Corporations. Generally, Form 4506-T can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer.

Partnerships. Generally, Form 4506-T can be signed by any person who was a member of the partnership during any part of the tax period requested on line 9.

All others. See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

Documentation. For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the letters testamentary authorizing an individual to act for an estate.

Signature by a representative. A representative can sign Form 4506-T for a taxpayer only if the taxpayer has specifically delegated this authority to the representative on Form 2848, line 5. The representative must attach Form 2848 showing the delegation to Form 4506-T.

Privacy Act and Paperwork Reduction Act

Notice. We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. You are not required to request any transcript; if you do request a transcript, sections 6103 and 6109 and their regulations require you to provide this information, including your SSN or EIN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file Form 4506-T will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form**, 10 min.; **Preparing the form**, 12 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-T simpler, we would be happy to hear from you. You can write to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send the form to this address. Instead, see *Where to file* on this page.

Form **4506**

(Rev. September 2013)

Department of the Treasury
Internal Revenue Service**Request for Copy of Tax Return**

OMB No. 1545-0429

► **Request may be rejected if the form is incomplete or illegible.**

Tip. You may be able to get your tax return or return information from other sources. If you had your tax return completed by a paid preparer, they should be able to provide you a copy of the return. The IRS can provide a **Tax Return Transcript** for many returns free of charge. The transcript provides most of the line entries from the original tax return and usually contains the information that a third party (such as a mortgage company) requires. See **Form 4506-T, Request for Transcript of Tax Return**, or you can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Return or Account Transcript" or call 1-800-908-9946.

1a Name shown on tax return. If a joint return, enter the name shown first.	1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
2a If a joint return, enter spouse's name shown on tax return.	2b Second social security number or individual taxpayer identification number if joint tax return
3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)	
4 Previous address shown on the last return filed if different from line 3 (see instructions)	
5 If the tax return is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.	

Caution. If the tax return is being mailed to a third party, ensure that you have filled in lines 6 and 7 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your tax return to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your return information, you can specify this limitation in your written agreement with the third party.

6 Tax return requested. Form 1040, 1120, 941, etc. and all attachments as originally submitted to the IRS, including Form(s) W-2, schedules, or amended returns. Copies of Forms 1040, 1040A, and 1040EZ are generally available for 7 years from filing before they are destroyed by law. Other returns may be available for a longer period of time. Enter only one return number. If you need more than one type of return, you must complete another Form 4506. ► <u>1040</u>										
Note. If the copies must be certified for court or administrative proceedings, check here <input checked="" type="checkbox"/>										
7 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than eight years or periods, you must attach another Form 4506.										
12/31/2006	12/31/2007	12/31/2008	12/31/2009							
12/31/2010	12/31/2011	12/31/2012	12/31/2013							
8 Fee. There is a \$50 fee for each return requested. Full payment must be included with your request or it will be rejected. Make your check or money order payable to "United States Treasury." Enter your SSN, ITIN, or EIN and "Form 4506 request" on your check or money order.				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">a Cost for each return</td> <td style="text-align: right;">\$ 50.00</td> </tr> <tr> <td>b Number of returns requested on line 7</td> <td style="text-align: right;">8</td> </tr> <tr> <td>c Total cost. Multiply line 8a by line 8b</td> <td style="text-align: right;">\$ 400.00</td> </tr> </table>	a Cost for each return	\$ 50.00	b Number of returns requested on line 7	8	c Total cost. Multiply line 8a by line 8b	\$ 400.00
a Cost for each return	\$ 50.00									
b Number of returns requested on line 7	8									
c Total cost. Multiply line 8a by line 8b	\$ 400.00									
9 If we cannot find the tax return, we will refund the fee. If the refund should go to the third party listed on line 5, check here <input checked="" type="checkbox"/>										

Caution. Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax return requested. If the request applies to a joint return, at least one spouse must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506 on behalf of the taxpayer. **Note.** For tax returns being sent to a third party, this form must be received within 120 days of the signature date.

Sign Here	Phone number of taxpayer on line 1a or 2a
Signature (see instructions) _____ Date _____	
Title (if line 1a above is a corporation, partnership, estate, or trust) _____	
Spouse's signature _____ Date _____	

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about Form 4506 and its instructions, go to www.irs.gov/form4506. Information about any recent developments affecting Form 4506, Form 4506T and Form 4506T-EZ will be posted on that page.

General Instructions

Caution. Do not sign this form unless all applicable lines have been completed.

Purpose of form. Use Form 4506 to request a copy of your tax return. You can also designate (on line 5) a third party to receive the tax return.

How long will it take? It may take up to 75 calendar days for us to process your request.

Tip. Use Form 4506-T, Request for Transcript of Tax Return, to request tax return transcripts, tax account information, W-2 information, 1099 information, verification of non-filing, and records of account.

Automated transcript request. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Return or Account Transcript" or call 1-800-908-9946.

Where to file. Attach payment and mail Form 4506 to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual returns (Form 1040 series) and one for all other returns.

If you are requesting a return for more than one year and the chart below shows two different addresses, send your request to the address based on the address of your most recent return.

Chart for individual returns (Form 1040 series)

If you filed an individual return and lived in:

Mail to:

Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or A.P.O. or F.P.O. address

Internal Revenue Service
RAIVS Team
Stop 6716 AUSC
Austin, TX 73301

Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming

Internal Revenue Service
RAIVS Team
Stop 37106
Fresno, CA 93888

Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia

Internal Revenue Service
RAIVS Team
Stop 6705 P-6
Kansas City, MO 64999

Chart for all other returns

If you lived in or your business was in:

Mail to:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, a foreign country, or A.P.O. or F.P.O. address

Internal Revenue Service
RAIVS Team
P.O. Box 9941
Mail Stop 6734
Ogden, UT 84409

Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin

Internal Revenue Service
RAIVS Team
P.O. Box 145500
Stop 2800 F
Cincinnati, OH 45250

Specific Instructions

Line 1b. Enter your employer identification number (EIN) if you are requesting a copy of a business return. Otherwise, enter the first social security number (SSN) or your individual taxpayer identification number (ITIN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

Line 3. Enter your current address. If you use a P.O. box, please include it on this line 3.

Line 4. Enter the address shown on the last return filed if different from the address entered on line 3.

Note. If the address on Lines 3 and 4 are different and you have not changed your address with the IRS, file Form 8822, Change of Address. For a business address, file Form 8822-B, Change of Address or Responsible Party — Business.

Signature and date. Form 4506 must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the return be sent to a third party, the IRS must receive Form 4506 within 120 days of the date signed by the taxpayer or it will be rejected. Ensure that all applicable lines are completed before signing.

Individuals. Copies of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506 exactly as your name appeared on the original return. If you changed your name, also sign your current name.

Corporations. Generally, Form 4506 can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer.

Partnerships. Generally, Form 4506 can be signed by any person who was a member of the partnership during any part of the tax period requested on line 7.

All others. See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

Documentation. For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the letters testamentary authorizing an individual to act for an estate.

Signature by a representative. A representative can sign Form 4506 for a taxpayer only if this authority has been specifically delegated to the representative on Form 2848, line 5. Form 2848 showing the delegation must be attached to Form 4506.

Privacy Act and Paperwork Reduction Act

Notice. We ask for the information on this form to establish your right to gain access to the requested return(s) under the Internal Revenue Code. We need this information to properly identify the return(s) and respond to your request. If you request a copy of a tax return, sections 6103 and 6109 require you to provide this information, including your SSN or EIN, to process your request. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file Form 4506 will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form, 10 min.; Preparing the form, 16 min.; and Copying, assembling, and sending the form to the IRS, 20 min.**

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506 simpler, we would be happy to hear from you. You can write to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224.

Do not send the form to this address. Instead, see *Where to file* on this page.

UNITED STATES DISTRICT COURT	14-MD-2543 (JMF)
SOUTHERN DISTRICT OF NEW YORK	
IN RE: GENERAL MOTORS, LLC IGNITION SWITCH LITIGATION	14-MC-2543 (JMF)
THIS DOCUMENT RELATES	Case No. [INSERT CASE NO.]
TO: [INSERT NAME]	

**CONSUMER PLAINTIFF FACT SHEET
CASE INFORMATION**

The following questions are to be treated as interrogatories pursuant to Federal Rules of Civil Procedure, Rule 33, and are subject to Rules 26 and 37.

Prefatory Statement

Plaintiff has not fully completed investigation of the facts relating to this claim, and has not completed all necessary discovery or preparation for trial. All of the responses contained herein are based only upon such information and documents that are presently available to and specifically known to Plaintiff and Plaintiff's counsel, agents, and representatives, and disclose only those contentions known or reasonably available to Plaintiff and Plaintiff's counsel, agents and representatives. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, and establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the responses and contentions set forth herein.

The following responses are given without prejudice to Plaintiff's right to produce evidence of any subsequently discovered facts that Plaintiff may later recall or become aware of. Plaintiff accordingly reserves the right to change, amend or add to any and all responses herein as additional facts are ascertained, analyses are made, legal research is completed, memories are recalled and contentions are made. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of factual and legal contentions as are presently known, but should in no way be to the prejudice of Plaintiff or Defendant in relation to further discovery, research or analysis or in any future lawsuit. Plaintiff has an affirmative duty to supplement or correct a response in a timely manner if Plaintiff learns that in some material respect the response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to Defendant during the discovery

process or in writing. In such a circumstance, Plaintiff agrees to timely file an Amended Plaintiff Fact Sheet.

Plaintiff provides the responses herein with the understanding that Plaintiff's responses will be governed by Order No. 10—Protecting Confidentiality and Privileged Materials—entered on 9/10/2014 in this litigation. [See Dkt. No. 294]

Definitions

A. "Subject Vehicle" is defined as the vehicle that serves as the basis for Plaintiff's claims in this lawsuit. If Plaintiff's claims involve more than one Subject Vehicle, Plaintiff should answer each question calling for information about a Subject Vehicle for **each** Subject Vehicle Plaintiff claims is at issue.

B. "Subject Incident(s)" is defined as an Ignition-Switch Related Event(s) involving the Subject Vehicle, in the event that the Subject Vehicle has been involved in an Ignition-Switch Related Event.

C. "Ignition-Switch Related Event(s)" includes, but is not limited to, an incident where the ignition switch moved from the run position to accessory or otherwise moved out of the run position resulting in a partial loss of electrical power, turning off the engine, a loss of power steering and/or caused the airbags not to deploy.

I. PERSONAL INFORMATION

1. Name: _____
2. Date of Birth: _____
3. Address: _____
4. Are you completing this Fact Sheet in a representative capacity (*e.g.*, on behalf of the estate of a deceased person, or an incapacitated individual, or a minor claiming the damages or injury on which this lawsuit is based?) _____

5. What is your relationship to the represented individual?
6. Were you appointed by the Court?
Yes _____ No _____
7. If you represent a decedent's estate, state the date of death of the decedent.
8. If you represent a decedent's estate, identify all their living parents, spouse, and living children and provide their addresses or the addresses of their attorneys, if applicable, and

the children's ages.

If you are completing this Fact Sheet in a representative capacity, please respond to the remaining questions with respect to the person who you are representing. If the individual is deceased, please respond as of the time immediately prior to his or her death unless a different time period is specified. For the remaining questions of the fact sheet "you" or "your" means the person who is claiming damage or injury in this lawsuit.

9. Your Name: _____
10. Case Caption of the Complaint you filed in this lawsuit, the docket number, and the Court: _____
11. Male _____ Female _____
12. Current Address: _____
13. Dates: _____
14. Date of Birth: _____
15. Social Security Number: _____
16. Driver's License Number/State of Issuance/Date of First Issuance: _____

17. Are you currently employed?
Yes _____ No _____
If yes, identify your current employer and position.
18. Marital Status: Are you currently married?
Yes _____ No _____
If yes, please identify your current spouse and state how long you have been married.
19. Educational Background: List any schools or training you received beyond high school, the dates of attendance, your major or the type of training you received and the degree or certificate received and the date each was obtained. If you are a minor, list all grade schools attended and the highest grade level reached.

20. Military Service: Have you ever served in any branch of the military?

Yes_____ No

If yes, please provide the branch and dates of service, and indicate whether you were honorably discharged. _____

II. PREVIOUS LEGAL MATTERS

21. Have you been convicted of a felony within the last ten (10) years?

Yes_____ No_____

22. Have you been convicted of a misdemeanor within the last ten (10) years?

Yes_____ No_____

23. If you answered “yes” to question nos. 21 or 22, please identify the charge for which you were convicted, the court which you were convicted, the criminal action number assigned to the case, and the sentence imposed.

24. Have you ever been a named plaintiff in a class action?

Yes_____ No_____

If yes, identify the Court, the case name and names of adverse parties, the civil action number if filed, and state how the lawsuit was resolved.

25. Have you been compensated in any way, either in whole or in part, either in money or in-kind, for the damages or injuries you have alleged in this lawsuit:

Yes____ No____

If yes, please identify the type of compensation, amount of compensation, source of compensation, and date of compensation for any and all that you received.

26. Other than this case, have you or has someone on your behalf made a claim or filed a lawsuit concerning any of the injuries or damages you claim to have sustained in this lawsuit? (Please exclude other purported class actions involving these lawsuits).

Yes _____ No _____

If yes, identify the other persons or entities against whom the claim was made or lawsuit was filed, the date of the claim or lawsuit, where the claim or lawsuit was filed and the status of the claim or lawsuit. _____

27. Identify every person and/or entity with a financial interest in the claims asserted in this lawsuit, including but not limited to lien holders or co-owners of the Subject Vehicle(s) at issue. (Please exclude reference to any other vehicle owners who may be class members in MDL 2543). _____

III. VEHICLE INFORMATION

28. Provide the Model Year, Brand, Model, and Trim Level for the Subject Vehicle: _____
29. Provide the VIN for the Subject Vehicle: _____
30. Current license plate number, and state where Subject Vehicle is registered: _____
31. When did you acquire the Subject Vehicle? _____
32. How did you acquire the Subject Vehicle, e.g., purchase, lease, gift, etc.? _____
33. In what state did you acquire the Subject Vehicle? _____
34. Was the Subject Vehicle new or used when you acquired it? _____
35. If used when acquired, please state the mileage of the Subject Vehicle when you acquired it: _____
36. If you purchased or leased the Subject Vehicle, identify the name and location of the seller or lessor: _____
37. Did you finance the vehicle? If so, identify any current or prior lien holders: _____
38. If you acquired the Subject Vehicle other than through a purchase or a lease (e.g., by gift), identify the name and location of the person from who you acquired it and briefly describe the circumstances of your acquisition (e.g., it was a given to me as a graduation

present).

39. If you no longer own or lease the Subject Vehicle, describe the transaction in which you sold or otherwise relinquished it, including but not limited to the state and location, price (if applicable), and the name and location of any person or business to which you sold or otherwise relinquished the vehicle.
40. State where the Subject Vehicle is currently located and who is in possession of it. _____
41. State the date on which the Subject Vehicle was last driven. _____
42. State the current mileage on the Subject Vehicle. _____
43. Please state how the Subject Vehicle is/was used during your ownership of it (business, pleasure, etc ...) and the typical annual mileage prior to your lawsuit, including but not limited to who drove it (owner, children, spouses, etc.), approximately how far it was driven daily and on what types of roads (interstates, surface roads, both, etc.) _____
44. If you are not the original owner of the Subject Vehicle, to the extent known, are you aware whether the Subject Vehicle was modified or altered in any respect or accessories added during the time period the prior owner(s) had possession of the Subject Vehicle?
- Yes _____ No
- If yes, to the extent known, please identify what modifications and/or alterations were made or accessories added, by whom, on what date and the reason for such modifications, alterations, and/or accessory components.
45. Was the Subject Vehicle modified or altered in any respect (including repairs) or accessories added or removed at any time after the date of acquisition?
- Yes _____ No
- If yes, please identify what modifications and/or alterations were made or accessories added, by whom, on what date and the reason for the modification, alterations and/or accessory components.
46. Is the Subject Vehicle now covered or has it ever been covered by a written warranty?
- Yes _____ No

If yes, please indicate when the warranty expires or expired.

47. At the time you purchased the Subject Vehicle or at any time thereafter, did you purchase an optional extended warranty or vehicle service agreement for the Subject Vehicle?

Yes _____ No

If yes, please indicate when the warranty or vehicle service agreement expires or expired.

IV. MAINTENANCE HISTORY

48. Was the Subject Vehicle serviced, repaired or brought in for maintenance at any time after the date of your acquisition?

Yes _____ No _____

If yes, identify the type of service, repair or maintenance, the name or entity who performed it, where it was performed and on what date (your answer can be general with respect to regularly scheduled service and maintenance, but please try to be as specific as you can with respect to repairs). _____

49. Has the Subject Vehicle had any issues or malfunctions other than the Subject Incident(s) at any time from the date of purchase to the present?

Yes _____ No

If yes, identify each issue and/or malfunction, describe whether each was repaired (or if a repair was attempted) and whether the repair was made under warranty, provide details of the repair including the name of the entity who performed it, where it was performed and on what date, and state whether the identified issue and/or malfunction resulted in any injury and/or property damage and if so, describe. _____

50. Has the Subject Vehicle's ignition switch ever been repaired and/or serviced?

Yes _____ No

If yes, identify the repair and/or service that was performed, the date it was performed, and the name and address of the entity that provided the repair and/or service. _____

51. Has the Subject Vehicle's airbag(s) or its components ever been repaired and/or replaced?

Yes_____ No

If yes, identify the repair and/or service that was performed, the date it was performed, and the name and address of the entity that provided the repair and/or service. _____

52. State whether you received a recall notice(s) from General Motors and, for each such notice, state the problem identified in the notice (i.e., ignition switch, ignition key slot, airbags, etc.). _____

53. Which, if any, recall service(s) has or have been performed on the Subject Vehicle? Please identify the dates on which the service(s) was or were performed, the mileage on the Subject Vehicle at the time of such service(s), and the dealership where the service was performed. _____

V. INCIDENT INFORMATION

54. Do you claim to have experienced an Ignition Switch Related Event in the Subject Vehicle?

Yes_____ No_____

If yes, how many separate Subject Incidents have you experienced?_____

55. With respect to the first, or earliest, Subject Incident you experienced:

a. What date and time did it happen?_____

b. State the mileage on the Subject Vehicle at the time of the Subject Incident. _____

c. Identify anyone who was in the vehicle at the time by name, age, address and relationship to you, state where each was seated and the type, if any, of the safety belt equipment used by each occupant._____

d. Did the driver of the Subject Vehicle submit to any drug or alcohol testing following the Subject Incident?

Yes_____ No

If yes, please explain. _____

- e. Describe the clothing and footwear the driver was wearing when the Subject Incident occurred and describe the complete chain of custody for the clothing and footwear from the accident scene to the present location of the clothing and footwear. _____

- f. Did the driver have a cellular phone and/or other mobile communications device in the Subject Vehicle at the time of the Subject Incident?
- Yes_____ No
- If yes, identify the cellular number and service provider for the device(s). _____

- g. Describe all items on the key chain of the driver at the time of the Subject Incident, the weight of the key chain at the time of the Subject Incident, and provide a photograph of the key chain, if available. _____

- h. Describe, as precisely as possible, the location of the Subject Incident. Identify all street(s) or parking lot(s) or address(es) where it happened. _____

- i. Describe the lighting, weather and road conditions (*i.e.*, rainy, wet, icy, dry, etc.) at the time of the Subject Incident. _____

- j. Indicate the length of time and distance the Subject Vehicle traveled off the roadway during the Subject Incident, if applicable. _____

- k. Did the vehicle's power steering fail?
- Yes_____ No
- l. Did the vehicle's power brakes fail?
- Yes_____ No
- m. Was there a collision?
- Yes_____ No
- If yes, describe the portion of the Subject Vehicle that collided with or struck any other object during the Subject Incident. _____

- n. Did the Subject Incident involve a rollover event?

Yes_____ No

If yes, describe the rollover event, whether the rollover occurred on road or off road, whether it was a passenger's side or driver's leading roll, and whether the Subject Vehicle struck any object before, during or after the roll. _____

- o. Was anyone injured?

Yes_____ No

- p. Was any property damaged?

Yes_____ No

If so, identify the property damaged and describe the damage, including the total of any repair or estimate and whether any repairs were made to the Subject Vehicle as a result thereof. _____

- q. Did law enforcement or emergency responders arrive on scene?

Yes_____ No

If so, identify the responding agency and identify any incident or reporting number documenting their response to this incident. _____

- r. Was there a police report made at the time of the Subject Incident?

- s. Were any photographs taken at the scene, or shortly thereafter of the scene, of the Subject Vehicle and/or the Subject Vehicle's occupants?

- t. Describe what happened, including the Subject Vehicle's approximate speed when the Subject Incident began (and/or the gear the vehicle was in), any and all inputs (steering, braking, etc.) the driver made to the Subject Vehicle during the Subject Incident, the response of the Subject Vehicle, and the outcome.

- u. Did the Subject Vehicle's airbag(s) deploy during the incident?

Yes_____ No

If yes, which airbag(s) deployed?

- v. Identify all known witnesses, including their names and addresses, to the Subject Incident or anyone with information and/or knowledge about this Subject

Incident. For each individual identified, state the facts of which they have knowledge. _____

- w. Other than statements made to your counsel or their representatives, have you given any written or oral statements about the Subject Incident?

Yes_____ No

If yes, identify every person or entity to whom the statements were made, when the statements were made, and whether the statements were written and/or oral. __

- x. Who was the insurance carrier for the Subject Vehicle at the time of the Subject Incident? Please state the carrier's name, the policy number(s), and the name of the policy holder(s).

- y. Did you take the Subject Vehicle to a dealership or service facility after the Subject Incident to address the Subject Incident?

Yes_____ No_____

If yes, identify the dealership or service facility, the date of service, describe what work was done to the Subject Vehicle, anything you were told about the Subject Vehicle and/or the Ignition Switch Related Event, and identify all documentation associated therewith. _____

- z. Indicate whether, to the best of your knowledge, the Subject Vehicle's ignition switch has been cycled at any time since the Subject Incident.

Yes_____ No

If so, identify when, by whom, and how many times. _____

- aa. Indicate whether the Subject Vehicle has been powered on at any time since the Subject Incident.

Yes_____ No

If so, identify when, by whom, and how many times.

- bb. Identify all evidence regarding the Subject Incident of which you are aware, including but not limited to pictures of any damage or event, written statements,

or descriptions of the event, videos or pictures taken by any individual, or subsequent descriptions of the event sent by email, text or other electronic means or posted on any social networking or other website. For each piece of evidence, identify who is in current possession of the evidence? _____

56. For each additional incident you experienced, please answer question no. 55(a)-(bb) on a separate page and attach to the end of your Fact Sheet responses.

57. Other than the Subject Incident(s) you described in response to question nos. 55-56, please identify any traffic accident you have been involved in as a driver. Please do so by providing, on a separate page attached to the end of your Fact Sheet responses, the following information for each accident:

- a. The date and location of the incident; _____
- b. The make, model, and year of the vehicle you were driving; _____
- c. A general description of what happened; _____; and
- d. The vehicle's insurance carrier, the applicable policy number(s), and the identity of the policy holder. _____

58. Do you claim that the Subject Vehicle's ignition switch moved out of the run position in connection with the Subject Incident?

Yes _____ No _____

- a. If yes, please state each fact that supports that claim. _____
- b. Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c. Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

59. Do you claim that the Subject Vehicle experience a "moving stall" or otherwise lost engine power and that this caused a loss of vehicle control during the Subject Incident?

- a. If yes, please state each fact that supports that claim. _____

- b. Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____

- c. Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

60. Do you claim that a loss of power steering occurred because the ignition switch moved out of the run position?
- Yes_____ No
- a. If yes, please state each fact that supports that claim. _____

- b. Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____

- c. Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

61. Do you claim that a loss of power assist brakes occurred because the Ignition Switch moved out of the run position?
- Yes_____ No
- a. If yes, please state each fact that supports that claim. _____

- b. Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____

- c. Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

62. Do you claim that any of the airbag systems in the Subject Vehicle failed to deploy during the Subject Incident because the Ignition Switch moved out of the run position?
- Yes_____ No

- a. If yes, please state each fact that supports that claim. _____

 - b. Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____

 - c. Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

63. Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or contributed to the Subject Incident(s) and the basis for your assertions of same. _____

VI. MEDICAL HISTORY

64. Did you consume any prescription or non-prescription drugs in the forty-eight (48) hours leading up to, and including, any of the Subject Incidents you identified in response to questions 55 through 56 (if any)?
- Yes_____ No
- If yes, please provide the name(s) of the drug(s) consumed before each event or accident, as well as the amounts and the times of consumption relative to the event or accident. _____

65. If you claim the Subject Vehicle has experienced any Subject Incidents in response to questions 55 through 56, please identify any psychological, psychiatric, neurological, or other similar medical conditions affecting sensory perception or awareness, motor skills or control, memory, or cognition (*e.g.*, Parkinson's Disease), which you have received treatment for in the past ten (10) years. _____

66. Have you ever made a social security disability claim or worker's compensation claim?
- Yes_____ No
- If yes, identify the date and basis of such claim, as well as the length, if any, for which you claimed and/or that you collected such disability or worker's compensation claim. _____

VII. DAMAGES CLAIMS

67. Identify all damages, losses or expenses of any nature whatsoever by category and amount which you are claiming you suffered as a result of the events described in your

complaint, *e.g.*, any expenses for repairs or substitute transportation. _____

68. Did you discontinue driving the Subject Vehicle at any time because of the facts and circumstances alleged in this lawsuit?

Yes _____ No _____

If yes, please state how long you discontinued driving the vehicle and the dates of non-use: _____

If yes, please state what alternative transportation you used and the cost to you of any such alternative transportation: _____

69. Have you made any alteration (including repairs) to the Subject Vehicle because of the facts and circumstances alleged in this lawsuit?

Yes _____ No _____

If yes, identify the date when such alteration were made and the date, if any, when such alterations were reversed. _____

If yes, please describe each such alteration that was made, the name and address of the individual who performed the alteration and the cost of each alteration. _____

70. Have you attempted to sell or otherwise dispose of the Subject Vehicle?

Yes _____ No _____

If yes, describe the efforts you undertook to sell or otherwise dispose of the Subject Vehicle, including all Internet or print advertising, identify any dealership you communicated with about a trade-in, the trade-in value offered by any dealership, identify any offers made on the vehicle, the date of the offer, and the person making the offer. _____

If you sold or disposed of the vehicle, identify the date of sale or disposal, how it was sold or disposed of, any counter-party, any money or other consideration received, the mileage on the date of sale or disposal, and the condition of the vehicle at the time of sale or disposal. _____

71. Do you claim that the Subject Vehicle's value has been diminished?

Yes _____ No _____

72. If yes, please state the amount it has been diminished by and describe the basis for that claim. _____

_____ Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or contributed to your alleged damages.

73. Other than the individuals previously identified, please identify by name, address and relationship to you of any individuals with knowledge of the facts and circumstances alleged in this lawsuit or your claimed damages, and a brief explanation of the knowledge each individual possesses. _____

74. Were the oral or written representations alleged in either Paragraphs 98-149 of the Consolidated Complaint Concerning All GM-Branded Vehicles That Were Acquired July 11, 2009 Or Later [Dkt. No. 345] (if you are a named Plaintiff in that complaint) **or** Paragraphs 376-418 of the Consolidated Class Action Complaint Against New GM for Recalled Vehicles Manufactured by Old GM and Purchased Before July 11, 2009 [Dkt. No. 347] (if you are a named Plaintiff in that complaint) (or similar oral or written misrepresentations) made to you by any General Motors employee, any representative or agent of General Motors, or any General Motors automobile dealership?

Yes _____ No _____

If so, for each such representation, please identify who made it, when it was made, the substance of the communication and indicate whether you have any documents or other evidence of the communication. _____

VIII. OTHER COMMUNICATIONS

75. Identify any communications, presentations and/or submissions that have been made by you, or on your behalf, to any state or federal government official or representative, or any state or federal regulatory body (e.g., the National Highway Traffic Safety Administration ("NHTSA")) or any departments, divisions, staff member or technical experts or personnel of any state or federal government or regulatory body regarding the Subject Vehicle and involving the issue of unexpected stalling, ignition switch problems, and/or your claims. Please include the date of the communication, presentation and/or submission, the form, to whom it was made, and whether you received a response and if so, from whom. _____

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-
76. Have you sent or has someone on your behalf sent any instant messages, text messages, picture messages, video and/or audio messages regarding any Subject Vehicle or any GM vehicle, the issue of the alleged ignition switch related defects, any allegations made in this lawsuit, and/or your alleged injuries and damages?

Yes_____ No

If yes, please identify what you used to send those messages and your service provider. __

77. Have you or someone on your behalf uploaded or posted any writings, pictures, videos or other information or data to any web pages, social networking sites or blog sites regarding the Subject Vehicle, the ignition switch issue, any Subject Incident(s), your claims, your alleged injuries and/or your alleged damages?

Yes_____ No

If yes, please identify the blog, web page, internet site or social networking site, when the posting or uploading or blogging was done, your service provider and what device you used. _____

DOCUMENT REQUESTS

The following requests are to be treated as requests for the production of documents pursuant to Federal Rule of Civil Procedure, Rule 34, and are subject to Rule 37.

Instructions: The responding party shall produce into the MDL 2543 Document Depository, within thirty (30) days of the date of service of this Fact Sheet, any of the following documents that are in the responding party's possession, custody or control:

1. Copy of your driver's license.
2. Copies of all documents relating to the acquisition of the Subject Vehicle.
3. Copies of all warranties applicable to the Subject Vehicle, including but not limited to any warranties referenced in your responses to question nos. 46 and 47.
4. Copies of all documents reflecting any repair, inspection, service, recall service, alteration or modifications of the Subject Vehicle.
5. For each recall notice identified in question no. 52, please produce copies of the recall notice(s)
6. For each recall notice identified in question no. 52, please produce copies of all documents that you received from General Motors or a General Motors dealership relating to the recall notice(s).
7. If any recall service(s) were performed on the Subject Vehicle, please produce copies of all service records.
8. Copies of all documents relating to the sale of the Subject Vehicle if you have sold it.
9. Copies of all documents related to any alternate transportation identified in your response to question no. 68 including, but not limited to, rental agreements and proof of payment.
10. Copies of all documents relating to any alterations (including repairs) identified in your response to question no. 69 including, but not limited to, invoices, receipts and proof of payments.
11. If you listed the Subject Vehicle for sale, please produce any and all documents related to the sale including, but not limited to, copies of all internet and/or print advertising or any other documents regarding the amount you listed the Subject Vehicle for sale, any documents reflecting any change in your sale price while you were attempting to sell the Subject Vehicle, and any offers to purchase the Subject Vehicle.

12. If you answered “yes” to question 71, all evidence supporting the alleged diminution in value of the Subject Vehicle.
13. Produce copies of any and all documents relating to or regarding your alleged damages.
14. Produce copies of all evidence identified in question no. 55(bb).
15. If you claim the Subject Vehicle experienced one or more Subject Incidents, please provide a photograph of the key chain used to operate the Subject Vehicle as it existed at the time of the Subject Incident.
16. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all accident, incident or investigative reports (other than documents created by your counsel or at your counsel’s request) regarding the Subject Incident or the Subject Vehicle prepared by any responding agency or third party, and documents reflecting citations issued by any police agency or governmental agency relating to the Subject Incident.
17. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all towing records related to the towing of the Subject Vehicle as a result of the Subject Incident.
18. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all photographs, videotapes or digital images taken of the Subject Vehicle or any part of the Subject Vehicle before, during and/or after the Subject Incident.
19. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all photographs, videotapes or digital images taken of the injuries you claim to have sustained in the Subject Incident (other than documents created by your counsel or at your counsel’s request).
20. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all writings, drawings, photographs, videos, charts, sketches, diagrams, blueprints, plats, samples, maps, plans or renderings you made or your representative made which depict the location or area where the Subject Incident occurred (other than documents created by your counsel or at your counsel’s request).
21. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of any written and/or recorded statements that you gave (other than privileged communications or work product) regarding the Subject Vehicle, the Subject Incident or your claimed damages.
22. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all post-Subject Incident test results for the presence of alcohol or drugs in the driver of the Subject Vehicle at the time of the Subject Incident.

23. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of any written statements given to any police officer, fireman, fire investigator or any other public agency or entity regarding the Subject Incident.
24. Copies of any communications, including but not limited to e-mails and facsimiles, by you regarding the Subject Vehicle and involving an alleged vehicle defect, including but not limited to an alleged defect of the vehicle's ignition switch, except those communications to your counsel.
25. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all communications, including but not limited to e-mails and facsimiles, by you regarding the Subject Incident, except those communications with your counsel.
26. If you responded "yes" to question no. 26, please provide copies of any pleadings, depositions and correspondence relating to any claims or lawsuits filed by you or against you for personal injuries (including any claims made or lawsuits filed) regarding the Subject Incident (if any), aside from this lawsuit and excluding documents that are publicly available and confidential correspondence with an attorney.
27. If you claim the Subject Vehicle experienced a Subject Incident, please provide copies of any documents related to insurance, including claims you submitted and policies you had in effect as of the date of the Subject Incident that covered or may cover you, the Subject Vehicle, or the property on which the Subject Incident occurred.
28. If you claim the Subject Vehicle experienced a Subject Incident, please provide a complete copy of any settlement, agreement or other understanding with any party, person or entity with respect to any damages claimed as a result of the Subject Vehicle or the Subject Incident.
29. Copies of all communications, and responses thereto, including letters, submissions, presentations, testing, raw data, video, written materials, summaries and tangible materials provided by you or on your behalf or by your counsel regarding the Subject Vehicle, the Subject Incident (if any), your claims and/or your alleged damages to the following:
 - a. any state government or state regulatory body or any departments, divisions, staff members or technical experts or personnel of the state government or any state regulatory body or
 - b. any federal government or regulatory body including but not limited to members of Congress, members of the Senate, the National Highway Traffic Safety Administration or any departments, divisions, staff members or technical experts or personnel of the federal government or any federal regulatory body.

30. Copies of all pleadings filed in connection with any bankruptcy or insolvency proceeding initiated by you or on your behalf, excluding documents that are publicly available and confidential correspondence with an attorney.
31. Any and all documents you have received from persons or entities other than General Motors LLC in this above-entitled cause number that relate to the design, performance, manufacture, testing, inspection, marketing and/or distribution of any Subject Vehicle component for which you claim is defective.
32. All documents that you consulted in responding to the questions in this Plaintiff Fact Sheet or identified in your responses.
33. If you contend the Subject Vehicle experienced a Subject Incident, please produce for inspection and photographing the Subject Vehicle, including all component parts.
34. If you claim you experienced a personal injury as a result of a Subject Incident, please produce into the MDL 2543 Document Depository ***original signed authorizations*** within thirty (30) days of the date of service of this Fact Sheet for the release of relevant medical records, and to the extent a claim for lost wages is made, the release of relevant employment and financial records, including tax authorizations, social security authorizations, authorizations for the release of educational records, and Medicare/Medicaid disclosure forms. Plaintiff agrees to provide current authorizations as necessary. Plaintiff agrees that any document request above for medical and/or employment and/or financial records to be produced by Plaintiff will not preclude Defendants from also collecting such records directly from the source pursuant to the signed authorizations.

DECLARATION

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all the information provided in this Fact Sheet is true and correct to the best of my knowledge, information and belief formed after a reasonable inquiry. I understand that I am under an obligation to supplement these responses.

Date: _____

Signature _____

Name _____

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	14-MD-2543 (JMF)
IN RE: GENERAL MOTORS, LLC IGNITION SWITCH LITIGATION	14-MC-2543 (JMF)
THIS DOCUMENT RELATES TO: [INSERT NAME]	Case No. [INSERT CASE NO.]

**NON-CONSUMER PLAINTIFF FACT SHEET
CASE INFORMATION**

The following questions are to be treated as interrogatories pursuant to Federal Rules of Civil Procedure, Rule 33, and are subject to Rules 26 and 37.

Prefatory Statement

Plaintiff has not fully completed investigation of the facts relating to this claim, and has not completed all necessary discovery or preparation for trial. All of the responses contained herein are based only upon such information and documents that are presently available to and specifically known to Plaintiff and Plaintiff's counsel, agents, and representatives, and disclose only those contentions known or reasonably available to Plaintiff and Plaintiff's counsel, agents and representatives. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, and establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the responses and contentions set forth herein.

The following responses are given without prejudice to Plaintiff's right to produce evidence of any subsequently discovered facts that Plaintiff may later recall or become aware of. Plaintiff accordingly reserves the right to change, amend or add to any and all responses herein as additional facts are ascertained, analyses are made, legal research is completed, memories are recalled and contentions are made. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of factual and legal contentions as are presently known, but should in no way be to the prejudice of Plaintiff or Defendants in relation to further discovery, research or analysis or in any future lawsuit. Plaintiff has an affirmative duty to supplement or correct a response in a timely manner if Plaintiff learns that in some material respect the response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to Defendants during the discovery process or in writing. In such a circumstance, Plaintiff agrees to timely file an Amended Plaintiff Fact Sheet.

Plaintiff provides the responses herein with the understanding that Plaintiff's responses will be governed by Order No. 10—Protecting Confidentiality and Privileged Materials—entered on 9/10/2014 in this litigation. [See Dkt. No. 294]

DEFINITIONS

- A. “Affected Vehicle(s)” is defined as any and all vehicles that are the subject of the *Consolidated Complaint Concerning All GM-Branded Vehicles That Were Acquired July 11, 2009 or Later* [Dkt. No. 345].
- B. “Subject Vehicle(s)” is defined as the vehicle(s) that serve as the basis for Plaintiff’s claims in this lawsuit.
- C. “Subject Incident(s)” is defined as the Ignition-Switch Related Event(s) involving the Subject Vehicle(s) that serve as the basis for Plaintiff’s claims in this lawsuit.
- D. “Ignition-Switch Related Event” includes, but is not limited to, an incident where your ignition switch moved from the run position to accessory or otherwise moved out of the run position resulting in a partial loss of electrical power, turning off the engine, a loss of power steering and/or caused the airbags not to deploy.

I. BASIC INFORMATION

- 1. Provide the name and address of the individual completing this form: _____

- 2. Provide the relationship of the individual completing this form to the Plaintiff (*i.e.*, owner, officer, etc.) _____

- 3. Does the individual completing this form have authority to act on behalf of Plaintiff?
Yes_____ No
- 4. State the complete legal name of the Plaintiff: _____

- 5. Describe the nature of Plaintiff’s business (e.g., rental car company; used car dealership, automobile residual insurer, etc.): _____

- 6. State the date the Plaintiff opened for business: _____
- 7. Identify the legal structure of Plaintiff (e.g., Corporation; LLC, Subchapter S, LP, Partnership, sole proprietorship, etc.) _____

- 8. If the Plaintiff is not a sole proprietorship, provide the following information:
 - a Identify the state under whose law the Plaintiff is organized and the date of organization or inception: _____

- b D/b/a Name: _____
- c Primary Business Address: _____
- d Primary Business Telephone Number: _____
- e Additional Business Addresses: _____
- f Business Web Site Address: _____
- g Name of Chief Executive Officer: _____

9. If the Plaintiff is a sole proprietorship provide the following information:

- a Owner Name: _____
- b Owner Address: _____
- c Owner Date of Birth: _____
- d D/b/a Name: _____
- e Primary Business Address: _____
- f Business Phone Number(s): _____
- g Additional Business Addresses: _____
- h Business Web Site Addresses: _____

10. If the Plaintiff is not a public company or sole proprietorship, identify all owners of Plaintiff, including their names, addresses, dates of birth and their percentage ownership interest:

Name	Address	Date of Birth	% ownership

11. Has Plaintiff (or any principal or owner of Plaintiff) ever had any sales or dealer agreement with Defendant?

Yes_____ No

If yes, list the date each agreement was entered into and the term of each agreement. _____

For the remaining questions in this Fact Sheet, “you” or “your” means the Plaintiff identified in response to question no. 4.

12. How long have you been purchasing and reselling vehicles manufactured by Defendants [GM-branded vehicles]? _____

13. Prior to the filing of this lawsuit, how many vehicles manufactured by Defendants [GM-branded vehicles] have you sold?

14. Have you purchased any Affected Vehicle(s) since February 14, 2014?

Yes_____ No

If yes, identify the VIN, the purchase date, and the purchase price of each Affected Vehicle. Also, state which, if any, recall campaign repairs have been performed on each Affected Vehicle, and the dates on which the campaign repairs were performed, the mileage on the Affected Vehicle at the time of such service, and the dealership where the service was performed. _____

II. PREVIOUS LEGAL MATTERS

15. Other than this case, have you or has someone on your behalf made a claim or filed a lawsuit concerning an Affected Vehicle(s), the Subject Vehicle(s), any Subject Incident(s), and/or the damages that you claim to have sustained in this lawsuit?

Yes_____ No

If yes, identify the other persons or entities against whom the claim was made or lawsuit was filed, the date of the claim or lawsuit, where the claim or lawsuit was filed and the status of the claim or lawsuit. _____

16. Have you been compensated in any way, either in whole or in part, either in money or in-kind, for the damages or injuries you have alleged in this lawsuit?

Yes_____ No_____

If yes, please identify the type of compensation, amount of compensation, source of compensation, and date of compensation for any and all that you received. _____

17. Have you ever been a named plaintiff in a class action or participated in a class action lawsuit?

Yes _____ No _____

If yes, please identify the Court, the case name, the names of the adverse parties, the civil action number if filed, and state how the lawsuit was resolved. _____

18. Identify every person and/or entity with a financial interest in the claims asserted in this lawsuit, including but not limited to lien holders and/or co-owners of any Subject Vehicle at issue. _____

III. SUBJECT VEHICLE(S) INFORMATION

19. For every GM Vehicle for which you are making a claim ("Subject Vehicle(s)"), identify the information listed below.

a. Vehicle Identification Number. _____

b. Model Year, Brand, Model, and Trim Level. _____

c. Date of purchase. _____

d. Purchase price. _____

e. Did you finance the vehicle?

Yes _____ No _____

If so, identify any current or prior lien holders.

f. Did you purchase the Subject Vehicle new or used?

Yes _____ No _____

g. Identity the name and address of seller. _____

h. Mileage at date of purchase. _____

i. Additions or modifications ordered or received at the time of purchase?

Yes _____ No _____

If yes, identify the additions or modifications and the entity that made such additions or modifications.

- j. If you are not the original owner of the Subject Vehicle, to the extent known, are you aware whether the Subject Vehicle was modified or altered in any respect or accessories added during the time period the prior owner(s) had possession of the Subject Vehicle?

Yes _____ No _____

If yes, to the extent known, please identify what modifications and/or alterations were made or accessories added, by whom, on what date and the reason for such modifications, alterations, and/or accessory components. _____

- k. Was the Subject Vehicle modified or altered in any respect or accessories added at any time from the date of purchase to the date you sold the Subject Vehicle or the present if you still own the Subject Vehicle?

Yes _____ No _____

If yes, please identify what modifications and/or alterations were made or accessories added, by whom, on what date and the reason for such modifications, alterations and/or accessory components. _____

- l. Does Plaintiff still own the Subject Vehicle?

Yes _____ No _____

- m. If so what is the current mileage? _____

- n. The purpose for which the Subject Vehicle was/is used by the Plaintiff. _____

- o. At any time during your ownership and/or possession of the Subject Vehicle, has anyone measured or tested the torque of the Subject Vehicle's ignition switch?

Yes _____ No _____

If yes, identify the person who performed the measurements, when the measurements or testing was performed, the steps used in measuring or testing the ignition switch, the results of said measurements and/or testing, whether same was photographed or documented, and identify all persons present for same. _____

- p. Has the Subject Vehicle's Sensing and Diagnostic Module ("SDM") been downloaded at any time following the date of any Subject Incident identified in question no. 35?

Yes _____ No _____

If yes, identify the step by step process used to download the SDM data including but not limited to, the person performing the download of the data and the date such download occurred? Please indicate whether the module has been or is currently removed from the Subject Vehicle, and identify the power source used to obtain the data. _____

- q. Was a Tech II download performed on the Subject Vehicle since the date of any Subject Incident identified in question no. 35?

Yes _____ No _____

If yes, identify the person performing the download of the data and the date such download occurred. _____

- r. State which, if any, recall campaign repairs have been performed on the Subject Vehicle, and the dates on which the campaign repairs were performed, the mileage on the Subject Vehicle at the time of such service, and the dealership where the service was performed. In lieu of responding, you may refer to service records you produce in discovery if those records provide the information responsive to this request. _____

- s. If the Subject Vehicle is in Plaintiff's inventory and available for sale, state the price at which the Subject Vehicle is for sale as of the date this Fact Sheet is completed and the price at which the Subject Vehicle was for sale as of the date of the first recall campaign applicable to the Subject Vehicle in 2014. _____

20. If any Subject Vehicle identified in question no. 19 was purchased used, please describe any vehicle damage or defect in the mechanical condition of each Subject Vehicle when acquired (other than alleged Ignition Switch Related defects or other recall related conditions alleged in any MDL 2543 Consolidated Complaint). _____

<u>VIN</u>	<u>DAMAGE/DEFECT</u>

21. For each Subject Vehicle, identify whether the Subject Vehicle was serviced, repaired or brought in for maintenance at any time after the date of your acquisition. Identify the type of service, repair or maintenance, the name or entity who performed it, where it was performed and on what date.
 - a Vehicle Identification Number. _____
 - b Type of Service, Repair or Maintenance. _____
 - c Service Provider. _____
 - d Service, Repair or Maintenance Location. _____
 - e Service Date. _____

22. For each Subject Vehicle, identify whether the Subject Vehicle's ignition switch has ever been repaired and/or serviced.,

Yes_____ No _____

If so, identify the repair and/or service that was performed, the date it was performed, and the name and address of the entity that provided the repair and/or service. _____

23. For each Subject Vehicle, identify whether the airbag(s) or its components have ever been repaired or replaced.,

Yes_____ No _____

If so, identify the repair and/or service that was performed, the date it was performed, and the name and address of the entity that provided the repair and/or service. _____

24. For any Subject Vehicle(s) you have sold, identify the information listed below:
 - a Vehicle Identification Number. _____
 - b Date of sale. _____
 - c Sales price. _____
 - d Mileage on date of sale. _____
 - e Purchaser name and address. _____

25. For each Affected Vehicle you have owned since July 11, 2009 to the present, provide the information requested in question nos. 19-24.

26. Since any applicable recall on an Affected Vehicle was announced, have you sold any such vehicle without having the recall repair performed?

Yes _____ No _____

If yes, identify the VIN, the vehicle model, the model year, the mileage, the applicable recall, the purchaser name and address, the sale date and the sale price. _____

27. Are you claiming loss of use, lost income or any other damages resulting from Defendant's recall of any Subject Vehicle(s)?

Yes _____ No _____

If yes, identify the information listed below for each Subject Vehicle.

a Vehicle Identification Number. _____

b The dates of loss of use. _____

c Reason for loss of use. _____

d Was the Subject Vehicle subject to recall? _____

e Amount of loss of use damages claimed. _____

f Detail how you calculated the amount listed above. _____

28. Are claiming any diminution in value for any Subject Vehicle(s) you have sold?

Yes _____ No _____

If yes, identify the information below for each Subject Vehicle.

a Vehicle Identification Number. _____

b Date vehicle sold. _____

c Purchase Mileage. _____

d Expected sales price. _____

e Source of information regarding expected sales price. _____

f Actual sales price. _____

g Mileage at Sale. _____

29. Are you claiming diminution in value for any Subject Vehicle(s) you currently have in inventory?

Identify the information below for each Subject Vehicle:

- a Vehicle Identification Number. _____
- b Date vehicle purchased for resale. _____
- c Purchase price of vehicle. _____
- d Mileage when purchased. _____
- e Whether the vehicle has been offered for resale. _____
- f If vehicle has been offered for resale, the date it was offered. _____
- g If vehicle has been offered for resale, the price(s) asked for vehicle. _____
- h Have recall repairs been made to the vehicle, if applicable? _____
- i Is the vehicle in good operating condition (other than any alleged Ignition Switch Related Defects)? _____
- j Has the vehicle been advertised for sale? _____
- k Has the vehicle been continually marked for resale since acquired? _____
- l Amount of claimed diminution in value damages. _____
- m Detail how you calculated the claimed damages listed above. _____

30. Are claiming damages related to the inability to sell a Subject Vehicle?

Yes _____ No _____

If yes, provide the information below for each Subject Vehicle:

- a Vehicle Identification Number. _____
- b Date vehicle purchased for resale. _____
- c Purchase price of vehicle. _____
- d Mileage when purchased. _____
- e Date vehicle was offered for resale. _____
- f Price(s) asked for vehicle (resale)? _____

- g Have recall repairs been made to the vehicle, if applicable? _____
- h Is the vehicle in good operating condition (other than any alleged Ignition Switch Related Defects)? _____
- i Has the vehicle been advertised for sale? _____
- j Has the vehicle been continually marked for resale since acquired? _____
- k Has the vehicle been sold? If so, date of sale? _____
- l Actual sales price. _____
- m Amount of claimed damages related to the inability to sell the Subject Vehicle. ____
- n Detail how you calculated the claimed damages listed above. _____

31. Are you claiming damages related to loss of use for a Subject Vehicle?

Yes _____ No _____

If yes, provide the information below for each Subject Vehicle: _____

- a Vehicle Identification Number. _____
- b Date that vehicle loss of use began. _____
- c Specific reason(s) for loss of use and detailed explanation of loss of use, including supporting details. _____
- d Date that the loss of use ended. _____
- e If another vehicle was substituted for subject vehicle, daily cost for replacement vehicle during replacement period. _____
- f If rental vehicle, average daily income from renting subject vehicle before use was lost. _____
- g Amount of claimed damages relating to the loss of use of the Subject Vehicle. ____
- h Detail how you calculated the claimed damages listed above. _____

32. Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or

contributed to your alleged damages. _____

33. Are you claiming any alleged damages other than loss of use, diminution in value, or inability to sell?

Yes _____ No _____

If the answer is yes, please identify the type of damages, how they are calculated and the amount of each type of damages.

34. For all vehicles manufactured by General Motors Corporation or General Motors LLC not otherwise disclosed as Subject Vehicles or Affected Vehicles, please disclose all such vehicles purchased or sold from July 11, 2009 to the present, including identifying the VIN, the vehicle model, the model year, the mileage at purchase, the date of purchase, the mileage at sale (if sold), and the date of sale (if sold). _____

IV. SUBJECT INCIDENT(S) INFORMATION

35. Do you claim that any of the Subject Vehicles have experienced an Ignition-Switch Related Event ("Subject Incident")?

Yes _____ No _____

If yes, for each Subject Incident experienced, please identify the following:

a The VIN of the Subject Vehicle. _____

b What date and time did the Subject Incident occur? _____

c State the mileage on the Subject Vehicle at the time of the Subject Incident. _____

d Identify the driver of the Subject Vehicle at the time of the Subject Incident. _____

e Identify whether the vehicle was on loan, lease or rental at the time of the Subject Incident.

Yes _____ No _____

If yes, please explain.

f Identify anyone who was in the vehicle at the time by name, age, address and relationship to you, state where each was seated and the type, if any, of the safety belt equipment used by each occupant? _____

- g State whether any occupant (including the driver) of the Subject Vehicle consumed any prescription medication, non-prescription medication or drugs, or alcoholic beverage in the 24 hours prior to the Subject Incident and identify the substance and amount consumed.

Yes _____ No _____

- h Did the driver of the Subject Vehicle submit to any drug or alcohol testing following the Subject Incident?

Yes _____ No _____

If yes, please explain.

- i Describe the clothing and footwear the driver was wearing when the Subject Incident occurred and describe the complete chain of custody for the clothing and footwear from the accident scene to the present location of the clothing and footwear. _____

- j Did the driver have a cellular phone and/or other mobile communications device in the Subject Vehicle at the time of the Subject Incident?

Yes _____ No _____

If yes, identify the cellular number and service provider for the device(s). _____

- k Describe all items on the key chain of the driver at the time of the Subject Incident, the weight of the key chain at the time of the Subject Incident, and provide a photograph of the key chain, if available. _____

- l Describe the location of the Subject Incident including, but not limited to, the surroundings, terrain, and the highway, street or parking lot or address where it happened. _____

- m Describe the lighting, weather and road conditions (i.e. rainy, wet, icy, dry, etc.) at the time of the Subject Incident. _____

- n Indicate the length of time and distance the Subject Vehicle traveled off the roadway during the Subject Incident, if applicable. _____

- o Was there a collision?

Yes _____ No _____

If yes, describe the portion of the Subject Vehicle that collided with or struck any other object during the Subject Incident. _____

p Did the Subject Incident involve a rollover event?

Yes _____ No _____

If yes, describe the rollover event, whether the rollover occurred on road or off road, whether it was a passenger's side or driver's leading roll, and whether the Subject Vehicle struck any object before, during or after the roll. _____

q Was anyone injured?

Yes _____ No _____

r Was any property damaged, including but not limited to the vehicles involved?

Yes _____ No _____

If so, identify the property damaged and describe the damage, including the total of any repair estimate and whether any repairs were made to the vehicle as a result thereof. _____

s Did emergency responders arrive on scene?

Yes _____ No _____

If so, identify the responding agency and the incident or report number documenting their response to this incident. _____

t Was a police report made at the time of the Subject Incident?

Yes _____ No _____

u Were any photographs taken at the scene, or shortly thereafter of the scene, of the Subject Vehicle and/or the Subject Vehicle's occupants?

Yes _____ No _____

v Describe what happened, including the Subject Vehicle's approximate speed when the Subject Incident began (and/or the gear the vehicle was in), any and all inputs (steering, braking, etc.) the driver made to the vehicle during the Subject Incident, the response of the vehicle, and the outcome. _____

w Did the Subject Vehicle's airbag(s) deploy during the incident?

Yes _____ No _____

If yes, which airbag(s) deployed? _____

x Did any occupant physically contact any interior portion of the Subject Vehicle during the Subject Incident?

Yes _____ No _____

If yes, please explain. _____

y Was any occupant of the Subject Vehicle fully or partially ejected during the Subject Incident?

Yes _____ No _____

If yes, please explain. _____

z Identify all known witnesses to the Subject Incident (including their addresses). _____

aa Identify all persons with knowledge of the Subject Incident (including their addresses) and state the facts of which they have knowledge. _____

bb Identify any citations or tickets that were issued following the Subject Incident? _____

cc Other than statements made to your counsel or their representatives, have you given any written or oral statements about the Subject Incident?

Yes _____ No _____

If yes, identify every person or entity to whom the statements were made, when the statements were made, and whether the statements were written and/or oral. _____

dd Did you take the Subject Vehicle to a dealership or service facility after the Subject Incident to address the Ignition-Switch Related Event?

Yes _____ No _____

If yes, identify the dealership or service facility, the date of service, and describe what work was done to the Subject Vehicle, anything you were told about the Subject Vehicle and/or the Ignition-Switch Related Event, and identify all documentation associated therewith. _____

ee Indicate whether, to the best of your knowledge, the Subject Vehicle's ignition switch has been cycled at any time since the Subject Incident.

Yes _____ No _____

If so, identify when, by whom, and how many times. _____

- ff Indicate whether the Subject Vehicle has been powered on at any time since the Subject Incident.
- Yes _____ No _____
- If so, identify when, by whom, and how many times. _____
- gg Identify all evidence regarding the Subject Incident of which you are aware, including but not limited to pictures of any damage or event, written statements, or descriptions of the event, videos or pictures taken by any individual, or subsequent descriptions of the event sent by email, text or other electronic means or posted on any social networking or other website. For each piece of evidence, identify who is in current possession of the evidence. _____
- _____
36. Without prejudice to amending or supplementing this response at a later date, list the potential defects in the Subject Vehicle that you currently believe may have caused or contributed to the Subject Incident(s) and the basis for your assertions of same. _____
- _____
37. Do you claim that the Subject Vehicle's ignition switch moved out of the run position in connection with the Subject Incident?
- Yes _____ No _____
- a If yes, please state each fact that supports that claim. _____
- b Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____
38. Do you claim that the Subject Vehicle experience a "moving stall" or otherwise lost engine power and that this caused a loss of vehicle control during the Subject Incident?
- Yes _____ No _____
- a If yes, please state each fact that supports that claim. _____
- b Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____
39. Do you claim that a loss of power steering occurred because the ignition switch moved out of the run position?

Yes _____ No _____

- a If yes, please state each fact that supports that claim. _____
- b Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

40. Do you claim that a loss of power assist brakes occurred because the Ignition Switch moved out of the run position?

Yes _____ No _____

- a If yes, please state each fact that supports that claim. _____
- b Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

41. Do you claim that any of the airbag systems in the Subject Vehicle failed to deploy during the Subject Incident because the Ignition Switch moved out of the run position?

Yes _____ No _____

- a If yes, please state each fact that supports that claim. _____
- b Identify each document or technical data of any kind that supports that claim as it relates to the Subject Incident. _____
- c Identify each fact witness who will support that claim, and provide a summary of anticipated testimony. _____

V. OTHER COMMUNICATIONS

42. Identify any communications, presentations and/or submissions that have been made by you, or on your behalf or by your counsel to any Defendant regarding the Subject Vehicle, your claims, and/or your alleged injuries. Please include the date of the communication, presentation and/or submission, the form, to whom it was made, and whether you received a response and if so, from whom.

43. Identify any communications, presentations and/or submissions that have been made by you, or on your behalf or by your counsel to any state or federal government official or representative, or any state or federal regulatory body (*e.g.* the National Highway Traffic

Safety Administration (“NHTSA”)) or any departments, divisions, staff member or technical experts or personnel of any state or federal government or regulatory body regarding the Subject Vehicle, your claims, and/or your alleged injuries. Please include the date of the communication, presentation and/or submission, the form, to whom it was made, and whether you received a response and if so, from whom. _____

44. Have you sent or has someone on your behalf sent any instant messages, text messages, picture messages, video and/or audio messages regarding any Subject Vehicle or any GM vehicle, the issue of the alleged ignition switch related defects, any allegations made in this lawsuit, and/or your alleged injuries and damages?

Yes _____ No _____

If yes, please identify what you used to send those messages and your service provider. _____

45. Have you or someone on your behalf uploaded or posted any writings, pictures, videos or other information or data to any web pages, social networking sites or blog sites regarding the Subject Vehicle, the ignition switch issue, any Subject Incident(s), your claims, your alleged injuries and/or your alleged damages?

Yes _____ No _____

If yes, please identify the blog, web page, internet site or social networking site, when the posting or uploading or blogging was done, your service provider and what device you used. _____

46. Identify all persons who have provided information to complete this form. For each individual, identify the individual’s name and address, the relationship to the Plaintiff, the job title if employed by the Plaintiff, the questions the individual assisted with completing and/or the general nature of the type of information the individual provided:

Name	Address	Relationship to Plaintiff	Job Title if Employed by Plaintiff	Questions Assisted with Answering and/or General Type of Information Provided

DOCUMENT REQUESTS

The following requests are to be treated as requests for the production of documents pursuant to Federal Rule of Civil Procedure, Rule 34, and are subject to Rule 37.

Instructions: The responding party shall produce into the MDL 2543 Document Depository, within thirty (30) days of the date of service of this Fact Sheet, any of the following documents that are in the responding party's possession, custody or control:

1. Copies of all documents relating to the acquisition and/or sale of any and all Affected Vehicles and Subject Vehicle(s).
2. Copies of all documents reflecting any repair, inspection, service, recall service, alteration or modifications of the Affected Vehicles and/or Subject Vehicle(s).
3. Copies of all recall notices received for any and all Subject Vehicle(s) and/or Affected Vehicle(s).
4. Copies of all documents you received from General Motors or a General Motors dealership relating to any and all recall notices of for any and all Subject Vehicle(s) and/or the Affected Vehicle(s).
5. Copies of all warranties applicable or formerly applicable to any and all the Subject Vehicle(s) and/or the Affected Vehicle(s).
6. If you answered "yes" to question no. 27, produce all documents and/or evidence that relate to your claim for loss of use, lost income or any other damages as a result of the recalls.
7. If you answered "yes" to question no. 28, produce all documents and/or evidence that relate to your claim for diminution in value for any and all Subject Vehicle(s) you have sold including, but not limited to, copies of all internet and/or print advertising or any other documents regarding the amount you listed the Subject Vehicle(s) for sale, any documents reflecting any change in your sale price while you were attempting to sell the Subject Vehicle(s), and any offers to purchase the Subject Vehicle(s), and copies of all sale documents.
8. If you answered "yes" to question no. 29, produce all documents and/or evidence that relate to your claim for diminution in value for any and all Subject Vehicle(s) you still have in inventory including, but not limited to, copies of all internet and/or print advertising or any other documents regarding the amount you listed the Subject Vehicle for sale, any documents reflecting any change in your sale price while you were attempting to sell the Subject Vehicle, and any offers to purchase the Subject Vehicle..
9. If you answered "yes" to question no. 30, produce all documents and/or evidence that relate to your damages due to inability to sell any and all Subject Vehicle(s).

10. If you answered “yes” to question no. 31, produce all documents and/or evidence that relate to your damages due to loss of use of any and all Subject Vehicle(s)
11. If you answered “yes” to question no. 33, produce all documents and/or evidence that relate to any other damages asserted.
12. If you claim any of the Subject Vehicle(s) experienced one or more Subject Incidents, please produce copies of all accident, incident or investigative reports (other than documents created by your counsel or at your counsel’s request) regarding the Subject Incident or the Subject Vehicle prepared by any responding agency or third party, and documents reflecting citations issued by any police agency or governmental agency relating to the Subject Incident.
13. If you answered yes to question no. 35(e), produce copies of all documents related to the loan, lease or rental identified in your response.
14. Produce copies of all evidence identified in response to question no. 35(gg).
15. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all towing records related to the towing of the Subject Vehicle as a result of the Subject Incident.
16. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all photographs, videotapes or digital images taken of the Subject Vehicle or any part of the Subject Vehicle before, during and/or after the Subject Incident.
17. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all photographs, videotapes or digital images taken of the injuries you claim to have sustained in the Subject Incident (other than documents created by your counsel or at your counsel’s request).
18. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all writings, drawings, photographs, videos, charts, sketches, diagrams, blueprints, plats, samples, maps, plans or renderings you made or your representative made which depict the location or area where the Subject Incident occurred (other than documents created by your counsel or at your counsel’s request).
19. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of any written and/or recorded statements that you gave (other than privileged communications or work product) regarding the Subject Vehicle, the Subject Incident or your claimed damages.
20. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all post-Subject Incident test results for the presence of alcohol or drugs in the driver of the Subject Vehicle at the time of the Subject Incident.

21. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of any written statements given to any police officer, fireman, fire investigator or any other public agency or entity regarding the Subject Incident.
22. Copies of any communications, including but not limited to e-mails and facsimiles, by you regarding the Subject Vehicle and involving an alleged vehicle defect, including but not limited to an alleged defect of the vehicle's ignition switch, except those communications to only your counsel.
23. If you claim the Subject Vehicle experienced one or more Subject Incidents, please produce copies of all communications, including but not limited to e-mails and facsimiles, by you regarding the Subject Incident, except those communications with only your counsel.
24. If you responded "yes" to question no. 15, please provide copies of any pleadings, depositions and correspondence relating to any claims or lawsuits filed by you or against you for personal injuries (including any claims made or lawsuits filed) regarding the Subject Incident (if any), aside from this lawsuit and excluding documents that are publicly available and confidential correspondence with an attorney.
25. If you claim the Subject Vehicle experienced a Subject Incident, please provide copies of any documents related to insurance, including claims you submitted and policies you had in effect as of the date of the Subject Incident that covered or may cover you, the Subject Vehicle, or the property on which the Subject Incident occurred.
26. If you claim the Subject Vehicle experienced a Subject Incident, please provide a complete copy of any settlement, agreement or other understanding with any party, person or entity with respect to any damages claimed as a result of the Subject Vehicle or the Subject Incident.
27. Copies of all communications, and responses thereto, including letters, submissions, presentations, testing, raw data, video, written materials, summaries and tangible materials provided by you or on your behalf or by your counsel regarding the Subject Vehicle, the Subject Incident (if any), your claims and/or your alleged damages to the following:
 - g. any state government or state regulatory body or any departments, divisions, staff members or technical experts or personnel of the state government or any state regulatory body or
 - h. any federal government or regulatory body including but not limited to members of Congress, members of the Senate, the National Highway Traffic Safety Administration or any departments, divisions, staff members or technical experts or personnel of the federal government or any federal regulatory body.
28. Copies of all pleadings filed in connection with any bankruptcy or insolvency proceeding initiated by you or on your behalf, excluding documents that are publicly available and confidential correspondence with an attorney.

29. Any and all documents you have received from persons or entities other than General Motors LLC in this above-entitled cause number that relate to the design, performance, manufacture, testing, inspection, marketing and/or distribution of any Subject Vehicle component for which you claim is defective.
30. All documents that you consulted in responding to the questions in this Plaintiff Fact Sheet or identified in your responses.
31. If you contend the Subject Vehicle experienced a Subject Incident, please produce for inspection and photographing the Subject Vehicle, including all component parts.

DECLARATION

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all the information provided in this Fact Sheet is true and correct to the best of my knowledge, information and belief formed after a reasonable inquiry. I understand that I am under an obligation to supplement these responses in a timely manner.

Date: _____

Signature _____

Name _____

Title: _____

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:
TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION

) Docket No. 14 C 1748

) Chicago, Illinois
) November 30, 2017
) 11:30 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

SEEGER WEISS LLP
BY: MR. CHRISTOPHER SEEGER
77 Water Street
New York, NY 10005

SCHACHTER, HENDY & JOHNSON, P.S.C.
BY: MR. RONALD E. JOHNSON, JR.
909 Wright's Summit Parkway, Suite 210
Ft. Wright, KY 41011

Court Reporter:

MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

1 APPEARANCES CONTINUED:

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PAUL WEISS
BY: MR. DAVID M. BERNICK
1285 Avenue of the Americas
New York, NY 10019

KAYE SCHOLER LLP
BY: MR. ANDREW K. SOLOW
250 West 55th Street
New York, NY 10019

1 (The following proceedings were had in open court:)

2 THE CLERK: Case No. 14 C 1748, In Re: Testosterone
3 Replacement Therapy Products Liability Litigation.

4 THE COURT: All right. Welcome to all of those who
5 are on the phone.

6 The meeting we had in chambers, which is identified
7 on the docket by an order I entered yesterday, took longer
8 than I thought. So for those of you who aren't here and might
9 be listening in, which I suspect for each of these is a
10 dwindling number of people, I try to draw a balance in these
11 things between efficiency and transparency. Obviously, the
12 things that happen in open court are more transparent because
13 everybody can listen to them. Sometimes they are less
14 efficient. And so I'm trying to draw a balance.

15 Nothing that happens in our meeting in chambers is in
16 the least bit private, and everybody is free to talk about it
17 as much as they want. So the plaintiffs' steering committee
18 folks who are there can disseminate it however they want to.
19 Same is true on the defense side.

20 So I got very detailed proposals from both sides,
21 which I greatly appreciate. I just want to talk -- and we
22 have talked about a good deal of this back in the pre-meeting
23 meeting that we had. So I want to just talk generally so that
24 there is a record of it about a couple of sort of big picture
25 items.

1 So first of all, on the question of enhancement of
2 the plaintiffs' fact sheet, I'm sensitive to the fact that a
3 good deal of information is already included in the existing
4 plaintiffs' fact sheet as part of case management order 9, and
5 there's more information that's required as part of what I
6 directed in connection with the mixed-use case management
7 order. I am blanking on the number of that. It's in the 70s
8 somewhere.

9 I don't want to make people have to re-provide
10 information that they have already provided. That's just make
11 work, and there's certainly, as I said in the order that I
12 entered that gave rise to today's conference, part of what I
13 think is appropriate to do once we have reached this point in
14 the litigation is, you know, do things that will result in
15 winnowing of cases or defendants in cases, but I don't want to
16 make somebody just do make work for the purpose of having a
17 hoop to jump through that some people aren't going to jump
18 through.

19 So we had a discussion in chambers about the
20 differences between what each side has proposed in terms of a
21 fact sheet and what's already existing and on the table.

22 And we had a discussion also about -- from the
23 defense side what the defense considers to be big gaps, I
24 guess, in terms of information gathering. And two of the
25 things that were identified by the defendants that are missing

1 from the current regime, the case management order 9 regime,
2 if you will, is information regarding the amount of product
3 that was dispensed -- in other words, by a pharmacy -- and
4 information regarding the amount of product that was used. In
5 at least one of the bellwether trials that we have had, there
6 was -- maybe more than one, there was testimony about the
7 person not using the whole amount, what was prescribed, so I'm
8 certainly cognizant that those are issues.

9 I think where I draw the line at this point, I mean,
10 I do think that it's appropriate to require the plaintiffs to
11 include the dispensing information, including documents; in
12 other words, make the plaintiffs, as part of the fact sheet
13 process or, for existing cases, the supplemental fact sheet
14 process, go out and get the pharmacy records.

15 I am not prepared yet to require information about
16 exact usage. I think that's a much more complicated thing,
17 particularly when you're talking about something that's
18 effectively an interrogatory answer. I think that's something
19 that's more appropriately done during the discovery process
20 for cases that are picked out.

21 So what I was -- what I was suggesting or what I'd
22 like to see as part of the -- what I'd like to see done is
23 going forward, we're going to have -- the plaintiffs' fact
24 sheet regime is going to be essentially what already existed
25 in case management order 9, plus whatever we added on for the

1 mixed-use case cases, plus, if it's not included in one of
2 those places, which it may be, a requirement to go get the
3 dispensing -- or the pharmaceutical record -- the pharmacy
4 records regarding the amount of drug dispensed. I
5 communicated to the lawyers that I thought that we really
6 needed to have a form because there's still significant
7 numbers of cases coming in. I think I got somewhere
8 between 30 and 50 this month.

9 So we need to have a form that includes everything,
10 and then -- but more importantly, because of the bigger number
11 of cases, at least in the short term, we need to have some
12 sort of document or something that the lawyers or that the
13 parties in the existing cases can execute to say either, I've
14 already provided all of this, you know, and cite their prior
15 disclosures, or, here's the information. And I agree with the
16 defendants that this is something that ought to be signed by
17 the plaintiff, not just by the lawyer. My view on that is
18 that that will likely enhance the likelihood that the
19 disclosures will be meaningful and accurate. It's going to
20 require more work, but that's part of what happens when you
21 file a lawsuit.

22 So in terms of the contents of that, of the
23 enhancement of the fact sheet, that's what I think ought to
24 happen.

25 The one thing we did not talk -- and if anybody wants

1 to say anything about that, feel free.

2 The one thing we didn't talk about in the back was
3 the -- what I'll call the enforcement process. So I guess I
4 would like to hear a little bit of argument about that.

5 So currently -- and, again, I'm kind of painting in
6 broad strokes here. Currently, the way it works is you have a
7 deadline to provide a fact sheet. It's X number of days after
8 you file the lawsuit. If you don't do that, there's a letter
9 that goes out, I think, from the defendant saying, you're not
10 in compliance. There's sort of a cure period. And then
11 there's -- if it's not cured during the cure period, then the
12 defendant can file a motion to dismiss.

13 Is that basically right? I don't know what the dates
14 are.

15 And, honestly, the way that I have dealt with these,
16 and it's not surprised anybody, I haven't had a huge number of
17 those motions generally, but the way I have tended to deal
18 with them is that even when the motion gets filed, if the
19 party then comes into compliance, I deny the motion to
20 dismiss. I think -- I may have not done that in one or two
21 cases, but that's been my practice.

22 I don't think I said this in so many words in the
23 order that gave rise to today's meeting, but I guess part of
24 what I was trying to communicate is I'm at the point where I'm
25 inclined to be a bit less generous and maybe a lot less

1 generous with that, at least on the last part. In other
2 words, I'm going to -- you know, the universe is going to
3 consist of what's filed as of the deadline, and I guess what I
4 had in mind is, frankly, even contracting the process before
5 that. I certainly understand -- I mean, you know, I was a
6 practicing lawyer too, and I preside over any number of cases,
7 and I know that it's not always easy to get clients to sign
8 off on stuff and so on. But, again, they're parties in
9 lawsuits, who filed lawsuits, and I think that process needs
10 to be shortened, and I think it needs to be simplified, and
11 what I mean by "simplified" is maybe a step taken out of it.
12 So -- but I'd like to hear your thoughts on that.

13 Since it's really more of a defense issue, why don't
14 you talk first, and I'll let the plaintiffs talk after that.

15 MR. BERNICK: David Bernick for the AbbVie
16 defendants.

17 I think that the part of the existing process that's
18 most problematic is that it invites -- indeed, it requires --
19 kind of a back-and-forth communication --

20 THE COURT: Right.

21 MR. BERNICK: -- in order to try to resolve issues
22 before they come to the Court's attention. And what this
23 means is you get, you know, emails back and forth, and let's
24 go talk to the client, and stuff like that.

25 And so what we proposed is to try to make this more

1 routinized by simply -- we take the burden, of course, in
2 going through everything and finding where the non-compliance
3 is, and then we simply submit a chart of the non-compliant
4 forms --

5 THE COURT: Submit it to me.

6 MR. BERNICK: -- to the Court.

7 THE COURT: Yeah.

8 MR. BERNICK: That's correct.

9 And then it's at that point --

10 THE COURT: Then I issue some sort of an order to
11 show cause or something like that.

12 MR. BERNICK: Exactly. And then the plaintiffs can
13 come back and cure or respond or do whatever.

14 My sense also is -- this is an editorial comment, is
15 that based upon the experience that we've had so far with the
16 enhanced -- you know, the additional questions for
17 mixed-use --

18 THE COURT: Yeah.

19 MR. BERNICK: -- there really is a very substantial,
20 you know, in the sense, dropout rate at this point. You know,
21 our preliminary review says there are many, many cases that
22 are going to be dismissed or people haven't supplemented. And
23 so there really is a winnowing process that's taking place,
24 and it doesn't require, in a sense, much to make it happen.
25 People are not really interested in pushing the case or not

1 really interested in providing the information. It surfaces
2 pretty readily and that process hasn't taken an awful long
3 time.

4 So I really think that it probably is the right time
5 to say if it's non-compliant, it should just come to the
6 Court. If it's going to be cured or if there's going to be an
7 objection to it, let that be the process that does --

8 THE COURT: In other words, you submit the thing to
9 me, and it's -- there's a case management order that says that
10 once that's submitted, the person has 28 days or 21 days or
11 whatever it is to show cause why the case shouldn't be
12 dismissed, and that's basically the cure process.

13 MR. BERNICK: That's exactly right.

14 THE COURT: Your thoughts?

15 MR. SEEGER: I mean, so we are a representative
16 committee. You have law firms here that have a number of
17 cases, you have law firms that have a handful.

18 THE COURT: Right.

19 MR. SEEGER: And they really kind of fall into
20 different buckets. I mean, one lawyer may be somewhat less
21 engaged than I am, obviously, in this litigation, and I hate
22 to see a client hurt because somebody didn't -- you know,
23 because we have now condensed that cure period and he is
24 trying -- he or she is trying --

25 THE COURT: Give this to me in practical,

1 what-happens-on-the-ground terms.

2 MR. SEEGER: Yeah. That's what I'm trying to make an
3 effort to do. There are different -- I'm trying to say this
4 tactfully. I mean, you have different quality of lawyers with
5 different resources, frankly, that pay, you know, different
6 levels of attention to this stuff.

7 I wouldn't have a problem with a show cause process
8 that occurred after the cure. If we could keep the cure
9 process in place so at least when you do -- if and when you do
10 dismiss a case, we're pretty satisfied it's because the client
11 either didn't comply or the lawyer -- but we can satisfy
12 ourselves that something occurred between the lawyer and the
13 client, and that's my concern; that if we start condensing the
14 time frames, we're going to have -- you're going to find --
15 you're going to have some clients probably writing letters
16 saying, you know what? I wasn't told, nobody contacted me,
17 nobody said this, nobody said that.

18 THE COURT: Yeah.

19 MR. SEEGER: I understand -- let me give you one
20 example of where I think this has worked. I mean, Mr. Stanley
21 for Eli Lilly has used his authorizations, has sent letters to
22 almost everybody where there's mixed-use issues, and he's
23 gotten a number of people to voluntarily either dismiss him
24 from the case in mixed-use case examples or to just simply
25 say, we got it wrong.

1 So -- there are also -- on the defense side, there
2 are also different levels of enforcement and really trying to
3 sort of --

4 THE COURT: I know that. I know I get more motions
5 from some defendants than others. And there hasn't been a
6 huge volume of them.

7 So, look, I mean, I get all of that, but I guess I
8 have to, at some level -- and, again, this isn't a brand new
9 MDL. It's three and a half years old. Okay? It's three and
10 a half years old. And it has -- you know, the number is north
11 of 7,500 cases that got filed, and I think currently pending,
12 there are about 6100, the biggest chunk of the dismissals
13 being the Pfizer cases.

14 So people have filed lawsuits. Okay?

15 So if we never had an MDL, the way the plaintiffs'
16 fact sheet process would be happening is that part of it would
17 be 26(a) disclosures, which nobody has had to do in this case,
18 part of it would be interrogatory answers, which nobody has
19 had to do in this case, and the plaintiffs' fact sheet is
20 essentially a -- is a compressed or a condensed version of
21 those things. I mean, it's less information than people would
22 have to provide if there was no MDL and they were just
23 prosecuting their lawsuit. And I don't think it's in the
24 least bit unfair, too onerous or inappropriate to expect
25 people to do that, whether they got two lawyers at their firm

1 or 20 lawyers at their firm, whether they got 20 cases or
2 they've chosen to file 250 cases.

3 And, obviously, I'm concerned about the clients too.
4 I have been extremely stingy about letting lawyers withdraw
5 from cases, as I'm sure at least some of you know if you have
6 been following it. I almost always make them come in. Some
7 of the motions to withdraw have been withdrawn because of what
8 I -- all of the hoops I make people jump through. And part of
9 the reason I do that is that I certainly know, because I've
10 heard it in this case, that, you know, sometimes I have
11 lawyers who have never met with the clients and then basically
12 come in and move to withdraw saying, well, my client never
13 contacted me. Like, did you ever contact them?

14 So the people that I have allowed to withdraw,
15 they've tended to be situations where I've got an affidavit
16 that shows really in most cases beyond any shadow of a doubt
17 that the client has just completely gone off the grid, and so
18 it's really a client problem, not a lawyer problem. And
19 that's been deliberate on my part; I want to make sure that
20 it's a client problem, not a lawyer problem. Now, that's
21 withdrawals, not fact sheets, but there's not a whole lot of
22 difference between the two.

23 You know, we've reached a point here where I need to
24 be thinking about not just -- and we all need to be thinking
25 about not just getting information, but also how does this

1 case advance towards some ultimate conclusion. And I just
2 think that being more onerous -- and honestly, it's less
3 onerous than it would be in an individual lawsuit prosecuted
4 in federal court or in most state courts -- being more onerous
5 in terms of requiring people to provide information, giving
6 them less second, third, and fourth chances, is part of it.

7 So I appreciate what you're saying and I obviously
8 understand the folks who are here in the room are talking in a
9 representative capacity, and, you know, I get that, but I
10 think I'm -- we can talk about the time period, but I think
11 the defendants' proposal is the way to go on this. I'm -- I
12 want to take out that middle step, the middle step being the
13 back and forth. So that's going to come out.

14 And we can talk about -- I mean, the end result of
15 today, which is going to happen in about 15 minutes, 14 and a
16 half, is going to be you need to get together really fast and
17 draft an order. But, you know, see if you can agree on a date
18 for that show cause process and exactly how it's going to
19 happen. But if you can't, just let me know, and I'll resolve
20 it for you.

21 So that's plaintiffs' fact sheet.

22 The second kind of big picture thing is how that all
23 works in connection with the selection of more cases. And
24 what I said is that -- what I said to the lawyers in the back
25 is after having read both sides' proposals -- and the

1 plaintiffs' proposal in very broad terms was to do, I guess,
2 limited individual case discovery in a large number of cases,
3 use those to select a smaller number of cases, and then those
4 would be the additional trial cases -- the defendants have it
5 happening in waves, I guess.

6 But the other big difference is the defendants didn't
7 want the proposal of selecting additional trial cases to start
8 until after the plaintiffs' fact sheets had been enhanced.

9 And so what I said, and my intention is, I want to
10 have at least eight more cases beyond what we're already
11 anticipating that are going to be trial ready as of
12 August 1st. So when I say "beyond what we're already
13 anticipating," what we're already anticipating are the cases
14 that have already been selected and the mixed-use cases. So
15 it's eight more beyond that that are ready -- that are going
16 to be ready for trial as of August the 1st of this year -- I
17 know that involves a lot of work, a point I'll return to in a
18 moment -- and then a greater number than that of additional
19 cases ready for trial as of the first of next year, and a
20 greater number than that ready for trial as of, let's say, the
21 middle of next year, July 1st.

22 I'm not in a position to be specific on those
23 numbers. I'm going to leave that to people to propose in
24 advance. I think what you should assume is that the
25 likelihood is that I am going to be farming some things out or

1 trying to farm things out to other judges or we will be doing
2 multiple plaintiff cases. I have not made a decision on that,
3 and the final version of the order is going to say that's just
4 still an option on the table that I'll decide later and I've,
5 you know, thought about and continuing to think about what
6 both sides have submitted on that topic.

7 So how that fits in with the plaintiffs' fact sheet
8 thing is -- for the additional cases for the end of this year,
9 it's just not practical; there's not enough time to do an
10 enhancement of the supplementation of the plaintiffs' fact
11 sheet before those cases get picked because you are going to
12 have to start doing the work on them quicker.

13 I think as a practical matter, the wave two and later
14 waves are going to be cases that -- where the fact sheet will
15 have already been enhanced at that point because of just the
16 timing of when I do that, but for the first set, no.

17 Then we get to the -- kind of the big kahuna --
18 "kahuna," I believe, is spelled k-a-h-u-n-a; I think that's
19 the official spelling of "kahuna." So -- and that is how the
20 cases get picked.

21 So my -- and both sides made very detailed
22 submissions on this, and I completely understand where both
23 sides are coming from.

24 So the plaintiffs' idea was we should pick
25 everything. I get why -- I get the rationale for it. There

1 is a certain amount of sense to it. And I'm certainly
2 cognizant of the issue of not overburdening particular law
3 firms. I just don't think that has the appearance of
4 fairness, and maybe not actual fairness, so I'm not willing to
5 do that.

6 On the defendants' side, the proposal was random
7 selection. And I've said this before: Random doesn't mean
8 representative. Random means random. Coin can come up heads
9 six times in a row. That's random. It's not representative.
10 So I don't agree with that either.

11 I wish I had the idea to tell you, do it this way. I
12 don't. I'm sorry. I don't. I think that it's conceivable,
13 and I made this suggestion, that for this initial group of
14 cases, that you might be able to pull additional cases from
15 the mixed-use cases where you've already got, at least in
16 theory, the enhanced fact sheets, which I think were due this
17 past Monday. We've got a little bit more information about
18 those which, you know, could allow some intelligent thing -- I
19 mean, I think, honestly, if we can't come up with something
20 else, the default is going to be we do some sort of 50/50
21 thing if you can't agree to something, because that's just --
22 you know, that's what Solomon does when Solomon can't -- when
23 the parties can't do it. You just chop the baby in half, or
24 at least threaten to do so.

25 In terms of the proportions, what I said is that I

1 think that the proportions of cases should mirror the overall
2 proportions of cases that each defendant has in the MDL, with
3 the exception of the extra ones we are putting in for this
4 year. For those cases, Actavis and Endo are further behind,
5 and so they should be left out of the extra ones for this
6 year.

7 And so the proportions should be whatever the
8 proportions are for -- AbbVie's obviously got the most,
9 AbbVie, Auxilium, and Lilly. And then for the cases that
10 you're doing next year, you sort of equalize the proportions.

11 A big issue, though, is when lexicon happens, when
12 lexicon gets dealt with. I think really what this boils down
13 to is, ideally, lexicon waivers would be solicited, and nobody
14 has to waive lexicons; you know, people have a choice whether
15 or not to do that. Lexicon waivers would be solicited towards
16 the front end, the concern being that if it happens towards
17 the back end and there's, you know, less than optimal
18 percentage of lexicon waivers, you have to assume that's
19 what's going to happen, so you have to put more cases in on
20 the front, which is more work for everybody.

21 Again, I don't have any precise answers as to how
22 that should be done, but you guys are all very smart, and
23 you've done this before, and I think you ought to be able to
24 come up with something.

25 I do want to preserve the thing that, you know, a

1 non-waiver of lexicon doesn't get you out of the mix, and
2 that's just -- frankly, it's in there, it's in there as a --
3 for want of a better word is you don't get a free pass. I
4 mean, it's one little way of preventing people from gaining
5 it, so that somebody understands that even if they don't waive
6 lexicon, the case is still going to have to work up because
7 there's other ways I can deal with that. I can remand it, I
8 can ask to be assigned to another district to go try it there.
9 So -- and I don't want people to be able to think, oh, all I
10 have to do to get out of the system is just refuse to waive
11 lexicon. So that should be kept in.

12 And I think I've pretty much covered all of the
13 points I wanted to cover. Let me just go through my notes
14 really quickly here.

15 And so my -- I guess my two closing comments is
16 that -- and these are also both things that I said in our
17 meeting prior to the case management conference, all of the
18 current trial dates are set in stone until I say they aren't;
19 but I am not prepared to or willing to say that the 2018
20 schedule is what it is and everything else comes after that.
21 As I said, we're going to have more cases ready for trial
22 later in this year. Some of the dates that are set for later
23 in this year -- and I'm talking about the -- when I say "this
24 year," I mean 2018, and when I say "2018," I really mean the
25 second half of 2018 -- we've got some dates in some of the

1 case management orders. Those might end up being changed. As
2 I've said in the order that set today's conference, there's,
3 you know, at least some significant possibility that there may
4 be multiple trials going on in front of different judges at
5 the same time, and that includes state cases, obviously.

6 And, basically, the bottom line is this is going to
7 involve a lot more work for everybody; myself included, but
8 I'm not, you know, going to complain about that. I'm the one
9 that's imposing the extra work.

10 The fact is it's a very large MDL. It's got 7,000 --
11 like I said, north of 7500 cases filed, north of 6100 still
12 pending. In an ideal world, these things don't last forever,
13 and I need to find ways to kind of move it towards moving it
14 toward a conclusion, I think is the best way I can put that.

15 So I would like to get -- I guess, ideally, I would
16 like to have a draft order from you all by a week from today,
17 the idea being that I sign it a week from tomorrow, or I tweak
18 it and sign it a week from tomorrow, and then we go on from
19 there.

20 So what do people want to ask or say?

21 MR. BERNICK: Yeah. The scope of the order that you
22 want us to submit?

23 THE COURT: Yeah. Maybe it's more than one order,
24 honestly. Maybe it's one order for the fact sheet thing and
25 it's a different order for the picking cases and so on.

1 And I will add that I think on some of the
2 defendants, the idea was to pick cases from an existing list
3 or an existing pool. I'm -- absolutely, that's -- that is an
4 appropriate way to do it, but if there's disagreement about
5 that, I'll obviously have to adjudicate it and just make sure
6 that it gets teed up for me.

7 So I think it probably ought to be more than one
8 order. I think we ought to have an order on the fact sheet
9 thing that's cleaner, and I think we ought to have an order --
10 and maybe it's more than one order. I mean, I would like to
11 have -- just because it's easier for me to grasp what's going
12 on, I know that I got separate orders for AbbVie, Endo,
13 Actavis, Auxilium, and Lilly. I would frankly prefer to have
14 all of those in different sections in one order.

15 MR. BERNICK: I think you've given -- another option
16 might be fact sheet, maybe an order for 2018 trials, and
17 then --

18 THE COURT: That's fine too.

19 MR. BERNICK: -- more for 2019 trials --

20 THE COURT: That's fine too. That's fine too. Yeah,
21 that's fine.

22 MR. BERNICK: Okay. I just had three questions.

23 THE COURT: Sure.

24 MR. BERNICK: One, just so we can at least predict or
25 have some notion of where you're -- when do you think you

1 might be involving other judges?

2 THE COURT: I don't -- so just realistically, I don't
3 expect it to be -- this is why I'm talking about second half
4 of 2018. That's when.

5 MR. BERNICK: Okay. Okay.

6 THE COURT: That's when.

7 MR. BERNICK: Second --

8 THE COURT: I have a sales job to do, so it takes a
9 while.

10 MR. BERNICK: With respect to the timing for the --
11 for the PFS supplements --

12 THE COURT: Yeah.

13 MR. BERNICK: -- I take it from what you have said is
14 that that's a forget it in connection with the trials in
15 2018 --

16 THE COURT: Correct.

17 MR. BERNICK: -- but should we be thinking about the
18 timing of when those need to be submitted?

19 THE COURT: Well, so what I --

20 MR. BERNICK: In part by 2019.

21 THE COURT: What I would say is for the existing
22 cases, I think what ought to happen is there ought to be
23 some -- you know, just to be general about it -- reasonable
24 time period from whenever I enter the order, that it's going
25 to have to be supplemented or somebody is going to have to

1 say, I've already provided this information; one of the two.
2 I don't know exactly what that time period is. Maybe it's 60
3 days, maybe it's 90 days. I don't know. I'll leave that for
4 you to negotiate.

5 MR. BERNICK: Okay. The last thing that I just -- by
6 way of information, maybe to draw a distinction that may be
7 helpful to your Honor, so if we're thinking about populating
8 the eight additional cases to be trial ready by the -- by
9 August of 2018, you've said, you know, expanding mixed-use may
10 be a way to go.

11 If we're working within the confines of the 100 that
12 were selected where we now have -- you know, people have
13 gotten --

14 THE COURT: Yeah.

15 MR. BERNICK: Based at least upon our predictions
16 right now or our estimate right now, it looks like there will
17 be a substantial enough volume of those cases -- that is, at
18 least from AbbVie's point of view -- that will be -- that
19 we'll have done the submission and complied with the
20 submission, to pick more cases from that. And that might be,
21 you know, a helpful thing to deal with.

22 THE COURT: Do you have any thoughts on that?

23 MR. JOHNSON: I don't think at this point -- I'm
24 sorry, your Honor.

25 THE COURT: Do you know?

1 MR. JOHNSON: Ron Johnson for the PSC.

2 THE COURT: Yeah.

3 MR. JOHNSON: We don't want to necessarily -- until
4 we know what that looks like, I don't want to limit ourselves
5 to that.

6 THE COURT: Yeah. That's fine. I mean, I did
7 suggest -- and I think I maybe neglected to say it out here --
8 I did suggest when I had our meeting that using those cases
9 might be a way of getting kind of a leg up on adding some more
10 cases on. I don't intend for that to be sort of, okay, it's
11 got to come from those, but, you know, those would be cases at
12 least where you've got additional information at this point
13 where you don't have to then tell somebody to go back and do
14 more. But I'm not going to impose that.

15 So it's certainly an option to consider. And, you
16 know, maybe -- you know, maybe if what we end up as a default
17 is that the plaintiffs are picking half and the defendants are
18 picking half -- because you're picking your half --

19 MR. JOHNSON: Right.

20 THE COURT: -- the defendants are picking their half
21 from that because you know more about those cases.

22 MR. BERNICK: One, experts. If we're going to be
23 gearing up for a significant number of additional new trials
24 at the back end of the year, we may have to involve, you know,
25 additional experts.

1 THE COURT: Yep. And this -- and these orders should
2 include the schedules for all of that kind of stuff.

3 MR. BERNICK: Okay. And then the last thing is that
4 random selection, so we have the selection of the cases that
5 are to be worked up for trial, and I know that random is off
6 the table for that, but what about kind of getting the cases
7 from which we can make our recommended selection?

8 So, for example, we had the 100 cases for the
9 bellwethers, we have the 100 cases for the mixed-use cases,
10 and those were all random selection as opposed to the parties
11 going back over the pool as a whole where you know the
12 arguments back and forth --

13 THE COURT: Yeah, we had this discussion before. I
14 am just going to short-circuit this. I'm not going to do what
15 I did with the original AbbVie pool, which is where I
16 basically said, okay, we're going to randomly pull a subset so
17 you have a smaller chunk to look at. I mean, you are free to
18 do that on your own, if you want, but I am not going to impose
19 that. That's the bottom line.

20 MR. BERNICK: Okay.

21 THE COURT: Been there, done that. Okay.

22 Anything on the plaintiffs' side you want to raise?
23 Mr. Solow?

24 MR. SOLOW: Andrew Solow for Auxilium and Endo, your
25 Honor.

1 Just one quick item. With the eight additional cases
2 and going forward in the future, if your Honor is leaving it
3 to the parties to decide what the selection method is going to
4 be, so we can get some guidance, is it clear that there will
5 be some ability within the process, in your mind's eye, of
6 arguments of non-representative? I know you dealt with this
7 previously --

8 THE COURT: Yeah, sure, of course. Right. I mean,
9 people are going to be able to come in and say, don't let this
10 case go to trial. It's an outlier. Absolutely. I mean, I
11 don't want -- I want to have cases to try. I don't want them
12 to be complete oddball cases on either side.

13 So, yeah, sure, of course.

14 MR. SOLOW: With that guidance, we will hopefully be
15 able to negotiate. Thank you, your Honor.

16 THE COURT: I mean, you know, honestly, I want to
17 have -- as I have before, I want to have some input in this is
18 the case that's going to trial and so on. And it's
19 particularly true if I'm, to use a Chicago term, Lujacking
20 these things to other people.

21 All right. Thank you for coming in today. See you
22 in a few weeks.

23 MR. JOHNSON: Thank you, Judge.

24 MR. SEEGER: Thank you, Judge.

25 (Which were all the proceedings had in the above-entitled
cause on the day and date aforesaid.)

1 I certify that the foregoing is a correct transcript from
2 the record of proceedings in the above-entitled matter.

3 Carolyn R. Cox
4 Official Court Reporter
Northern District of Illinois

Date

5 /s/Carolyn R. Cox, CSR, RPR, CRR, FCRR

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EXHIBIT C



FILED
San Francisco County Superior Court

NOV 08 2024

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DEPARTMENT 613

COORDINATION PROCEEDING SPECIAL
TITLE
[RULE 3.550(c)]

IN RE LYFT RIDESHARE CASES

This Order Relates to All Cases.

Case No. CJC-20-005061
JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5061

ORDER AFTER CASE MANAGEMENT
CONFERENCE AND ORDER GRANTING
PETITION TO COORDINATE ADD-ON CASE
AND GRANTING REQUEST FOR
INCLUSION IN PLAINTIFFS' BELLWETHER
POOL

A case management conference was held on November 7, 2024, in the above matter. William A. Levin and Laurel Simes (Levin Simes LLP) appeared in person, Walt Cubberly (Williams Hart & Boundas, LLP) appeared in person, Brooks Cutter and Celine Cutter (Cutter Law P.C.) appeared in person, Angela Nehmens (Estey & Bomberger LLP) appeared in person, Anna Cronk (Greenslade Cronk, LLP) appeared telephonically, Oscar Garza and Sharyl Garza (The Garza Firm) appeared telephonically for Plaintiffs. David Riskin (Williams & Connolly LLP) and Warren Metlitzky (Conrad Metlitzky Kane LLP) appeared in person for Defendant Lyft.

1 The parties should prepare all 12 bellwether cases to commence trial on **April 28, 2025**. If a case
 2 settles, then the next case should be ready for trial. The joint trial of the three plaintiffs will go first.
 3 These three plaintiffs and Lyft must schedule a mandatory settlement conference with Presiding Judge
 4 Anne-Christine Massullo before **December 20, 2024**, in Department 206. The parties must immediately
 5 contact Department 206 to schedule a mutually convenient date.

6 As to *Jane Doe EB 92 v. Lyft, Inc.*, San Francisco Superior Court, Case No. CGC-24-617408, the
 7 Court held argument on the matter. Lyft did not oppose Jane Doe EB 92's petition to add-on the case to
 8 this JCCP, but only opposed the request for inclusion in the bellwether pool. Accordingly, the Court
 9 **GRANTS** the petition to coordinate her case as an add-on case and orders the case coordinated into JCCP
 10 5061 and that the case is stayed in its home jurisdiction pursuant to CRC 3.529(b) and 3.544(d). The
 11 Court finds that Plaintiffs' leadership counsel agreed on Plaintiff Jane Doe EB 92 as a bellwether
 12 candidate and provided Lyft with sufficient notice of its intent to add the case to this JCCP and its intent
 13 to have Plaintiff Jane Doe EB 92 as a bellwether candidate before the September 13, 2024 deadline.
 14 (Nehmens Decl., Exs. E-J.) Lyft did not argue that it is prejudiced by Plaintiff Jane Doe EB 92's case
 15 being included in the pool of Plaintiffs' bellwether candidates, but rather that including Plaintiff Jane Doe
 16 EB 92 would compromise the selection process by expanding the pool of cases without giving Lyft a
 17 reciprocal opportunity. The Court is unpersuaded by Lyft's arguments. Plaintiff Jane Doe EB 92 will be
 18 included as a bellwether plaintiff.

19 The Court will hear the demurrers on **January 16, 2025, at 10:30 a.m.** The parties should meet
 20 and confer and submit a stipulation and proposed order with a briefing schedule based on this hearing
 21 date.

22 The parties who have a bellwether case proceeding for trial should meet and confer and submit a
 23 stipulation and proposed order addressing all key dates based on the trial date. If the parties are unable to
 24 agree, then the parties should submit their respective proposals.

25 ///

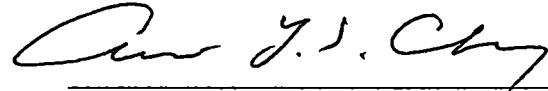
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1 The Court sets the next case management conference on **January 16, 2025, at 10:30 a.m.** with a
2 joint case management conference statement due no later than **January 9, 2025.**

3
4 IT IS SO ORDERED.

5
6 Dated: November 8, 2024



ANDREW Y.S. CHENG
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

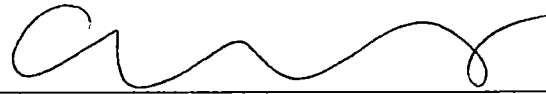
I, Ericka Larnauti, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On November 8, 2024, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: November 8, 2024

Brandon E. Riley, Clerk

By: _____

A handwritten signature in black ink, appearing to read 'Ericka Larnauti', written over a horizontal line.

Ericka Larnauti, Deputy Clerk

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TABATHA MEANS,
Plaintiff,

v.

LYFT, INC.,
Defendant.

Case No. 24-cv-00177-MMC

**AMENDED
PRETRIAL PREPARATION ORDER**

It is hereby **ORDERED** pursuant to Federal Rules of Civil Procedure and the Local Rules of this Court:

JURY TRIAL DATE: Monday, April 13, 2026 at 9:00 a.m., Courtroom 7, 19th floor.

TRIAL LENGTH is estimated to be 5 to 10 days.

DISCOVERY PLAN: Per Federal Rules of Civil Procedure and Local Rules, subject to any provisions below.

NON-EXPERT DISCOVERY CUTOFF: June 27, 2025.

DESIGNATION OF EXPERTS:

Plaintiff: No later than August 1, 2025.

Defendant: No later than September 26, 2025.

Parties shall conform to Federal Rule of Civil Procedure 26(a)(2).

EXPERT DISCOVERY CUTOFF: November 21, 2025.

DISCOVERY MATTERS, unless otherwise ordered, will be referred to a Magistrate Judge.

DEADLINE TO AMEND PLEADINGS: November 1, 2024.

DAUBERT/DISPOSITIVE MOTIONS shall be filed no later than December 12, 2025.
Opposition due January 2, 2026; Reply due January 16, 2026; Hearing to be held February 6, 2026 at 9:00 a.m. .

PRETRIAL CONFERENCE DATE: March 31, 2026 at **10:00 a.m.**

COUNSEL WHO INTEND TO TRY THE CASE MUST ATTEND THE PRETRIAL CONFERENCE. Counsel shall be prepared to discuss all aspects of the case, including settlement. Pretrial shall conform to the attached instructions.

MEET AND CONFER (Civil L.R. 16-10(b)(5): Lead trial counsel shall meet and confer no later than February 23, 2026.

FURTHER STATUS CONFERENCE: Friday, December 12, 2025 at 10:30 a.m.

FURTHER STATUS CONFERENCE STATEMENT DUE: Friday, December 5, 2025.

ADDITIONAL ORDERS:

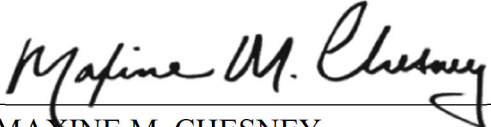
Case previously referred to Private Mediation by agreement of the parties.

Initial Rule 26 Disclosures due October 4, 2024.

See attached Pretrial Instructions.

PLAINTIFF IS ORDERED TO SERVE A COPY OF THIS ORDER ON ANY PARTY SUBSEQUENTLY JOINED IN THIS ACTION.

Dated: July 29, 2024


MAXINE M. CHESNEY
Senior United States District Judge

(Revised 05/2024)

PRETRIAL INSTRUCTIONS

In advance of complying with the following pretrial requirements, for the purpose of preparing for the Pretrial Conference and to discuss settlement, counsel SHALL meet and confer in good faith and no later than the meet and confer deadline set forth in the attached order.

A. PRETRIAL STATEMENT: No later than **ten court days** before the scheduled Pretrial Conference, the parties shall file a joint Pretrial Statement which shall set forth:

1. The substance of the action;
2. The relief claimed, including the particular elements of the damages claimed;
3. The factual issues remaining, as well as any stipulations of fact;
4. The legal issues, including a concise statement of each disputed point of law concerning liability or relief and citing supporting statutory and case law;
5. A current estimate as to the length of the trial;
6. The status of the case with respect to alternative dispute resolution.
7. A list of witnesses likely to be called at trial. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

B. JURY INSTRUCTIONS:

1. **Joint Set of Agreed Upon Instructions:** The parties shall jointly prepare a set of **agreed upon** jury instructions, which shall be filed **ten court days** prior to the Pretrial Conference.

2. **Separate Instructions:** Separate instructions may be submitted only as to those instructions upon which the parties cannot agree. Each separate instruction shall note on its face the identity of the party submitting such instruction. Separate instructions shall be filed **ten court days** prior to the Pretrial Conference.

No later than **ten court days** prior to the Pretrial Conference, the party or parties objecting to an instruction shall file a written objection to such instruction. The form of the objection shall be as follows:

- (a) Set forth in full the instruction to which the objection is made;
- (b) Provide concise argument and citations to authority explaining why the opposing party's instruction is improper; and
- (c) Set forth in full an alternative instruction, if any.

3. Substance and Format of Instructions: The instructions shall cover all substantive issues. Proposed instructions shall be consecutively numbered. Each proposed instruction shall be typed in full on a separate page and cover only one subject, to be indicated in the title. Citations to the authorities upon which the instruction is based shall be included. Instructions shall be brief, clear, written in plain English and free of argument. Pattern or form instructions shall be revised to address the particular facts and issues of the case.

C. VOIR DIRE AND VERDICT FORMS: No later than ten court days prior to the Pretrial Conference each party shall serve and file proposed questions for jury voir dire and a proposed form of verdict.

D. EXHIBITS:

1. Copies of Exhibits for Other Parties: No later than ten court days prior to the Pretrial Conference, each party shall provide every other party with one set of all proposed exhibits, charts, schedules, summaries, diagrams and other similar documentary materials to be used in its case in chief at trial, together with a complete list (**see attached form**) of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries. Each item shall be pre-marked with an exhibit sticker (see attached form), plaintiff's exhibits with numbers, defendant's exhibits with letters or with numbers sequenced to begin after plaintiff's exhibit numbers. If there are numerous exhibits, they should be provided in three-ring binders with marked tab separators. All exhibits which have not been provided as required are subject to exclusion.

2. Stipulations Re: Admissibility: Prior to the Pretrial Conference, the parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at the Pretrial Conference. If stipulation to admission in evidence is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

3. Copies of Exhibits for the Court: One set of exhibits shall be provided to the Court on the first day of trial. Each set shall be in binders, tabbed and indexed.

4. Disposition of Exhibits after Trial: Upon the conclusion of the trial, each party shall file its exhibits in accordance with Civil Local Rule 5-1(g).

F. WITNESSES:

1. Jury Trials: The Pretrial Conference Statement shall include a list of witnesses likely to be called at trial, other than solely for impeachment or rebuttal. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

2. Non-Jury Trials: Each party shall include as an exhibit to the Pretrial Conference Statement a list comprising a brief outline of the proposed direct testimony of each witness under that party's control.

G. MOTIONS IN LIMINE: Motions in limine are limited to motions to exclude specific items of evidence (i.e., specific testimony or exhibits) on a ground and upon such authority as would be sufficient to sustain an objection to such evidence at trial.

1. Motions in limine shall be filed and served no later than **ten court days** prior to the date set for the Pretrial Conference. Any party opposing such a motion in limine shall file and serve its opposition papers no later than **five court days** prior to the Pretrial Conference. No reply papers will be considered.

2. Each motion in limine and each opposition thereto, shall be individually numbered and filed as a separate document.

H. LIST OF EXHIBITS WITH STIPULATIONS AND OBJECTIONS: No later than **one court day** prior to the Pretrial Conference the parties shall file with the Court a list of all exhibits admitted by stipulation; and a list of all exhibits as to which objections have been made, with a brief notation indicating which party objects and for what reason.

I. OTHER PRETRIAL MATTERS

1. Settlement Conferences - Any party utilizing another form of Alternative Dispute Resolution who wishes to arrange a settlement conference before a judge or magistrate judge thereafter may do so by contacting the Courtroom Deputy.

2. Daily Transcripts - If transcripts will be requested during or immediately after trial, arrangements must be made with the court reporter at least **one week** before trial commences.

Attachments

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. C - MMC

DATE:

V.

EXHIBIT LIST

() Plaintiff

() Defendant

[illegible]

Case No. _____ PLTF Exhibit No. <u>1</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>A</u> Date Admitted _____ Signature _____
Case No. _____ PLTF Exhibit No. <u>2</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>B</u> Date Admitted _____ Signature _____
Case No. _____ PLTF Exhibit No. <u>3</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>C</u> Date Admitted _____ Signature _____
Case No. _____ PLTF Exhibit No. <u>4</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>D</u> Date Admitted _____ Signature _____
Case No. _____ PLTF Exhibit No. <u>5</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>E</u> Date Admitted _____ Signature _____
Case No. _____ PLTF Exhibit No. <u>6</u> Date Admitted _____ Signature _____	Case No. _____ DEFT Exhibit No. <u>F</u> Date Admitted _____ Signature _____

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAURIE SPANO,
Plaintiff,
v.
LYFT, INC.,
Defendant.

Case No. 24-cv-00799-MMC

**AMENDED
PRETRIAL PREPARATION ORDER**

It is hereby **ORDERED** pursuant to Federal Rules of Civil Procedure and the Local Rules of this Court:

JURY TRIAL DATE: Monday, April 13, 2026 at 9:00 a.m., Courtroom 7, 19th floor.

TRIAL LENGTH is estimated to be 5 to 10 days.

DISCOVERY PLAN: Per Federal Rules of Civil Procedure and Local Rules, subject to any provisions below.

NON-EXPERT DISCOVERY CUTOFF: June 27, 2025.

DESIGNATION OF EXPERTS:

Plaintiff: No later than August 1, 2025.

Defendant: No later than September 26, 2025.

Parties shall conform to Federal Rule of Civil Procedure 26(a)(2).

EXPERT DISCOVERY CUTOFF: November 21, 2025.

DISCOVERY MATTERS, unless otherwise ordered, will be referred to a Magistrate Judge.

DEADLINE TO AMEND PLEADINGS: November 1, 2024.

DAUBERT/DISPOSITIVE MOTIONS shall be filed no later than December 12, 2025.
Opposition due January 2, 2026; Reply due January 16, 2026; Hearing to be held February 6, 2026 at 9:00 a.m..

PRETRIAL CONFERENCE DATE: March 31, 2026 at **10:00 a.m.**

COUNSEL WHO INTEND TO TRY THE CASE MUST ATTEND THE PRETRIAL CONFERENCE. Counsel shall be prepared to discuss all aspects of the case, including settlement. Pretrial shall conform to the attached instructions.

MEET AND CONFER (Civil L.R. 16-10(b)(5): Lead trial counsel shall meet and confer no later than February 23, 2026.

FURTHER STATUS CONFERENCE: Friday, December 12, 2025 at 10:30 a.m.

FURTHER STATUS CONFERENCE STATEMENT DUE: Friday, December 5, 2025.

ADDITIONAL ORDERS:


Case referred to Private Mediation by agreement of the parties.

Initial Rule 26 Disclosures due October 4, 2024.

See attached Pretrial Instructions.

PLAINTIFF IS ORDERED TO SERVE A COPY OF THIS ORDER ON ANY PARTY SUBSEQUENTLY JOINED IN THIS ACTION.

Dated: July 29, 2024


MAXINE M. CHESNEY
Senior United States District Judge

(Revised 05/2024)

PRETRIAL INSTRUCTIONS

In advance of complying with the following pretrial requirements, for the purpose of preparing for the Pretrial Conference and to discuss settlement, counsel SHALL meet and confer in good faith and no later than the meet and confer deadline set forth in the attached order.

A. PRETRIAL STATEMENT: No later than **ten court days** before the scheduled Pretrial Conference, the parties shall file a joint Pretrial Statement which shall set forth:

1. The substance of the action;
2. The relief claimed, including the particular elements of the damages claimed;
3. The factual issues remaining, as well as any stipulations of fact;
4. The legal issues, including a concise statement of each disputed point of law concerning liability or relief and citing supporting statutory and case law;
5. A current estimate as to the length of the trial;
6. The status of the case with respect to alternative dispute resolution.
7. A list of witnesses likely to be called at trial. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

B. JURY INSTRUCTIONS:

1. **Joint Set of Agreed Upon Instructions:** The parties shall jointly prepare a set of **agreed upon** jury instructions, which shall be filed **ten court days** prior to the Pretrial Conference.

2. **Separate Instructions:** Separate instructions may be submitted only as to those instructions upon which the parties cannot agree. Each separate instruction shall note on its face the identity of the party submitting such instruction. Separate instructions shall be filed **ten court days** prior to the Pretrial Conference.

No later than **ten court days** prior to the Pretrial Conference, the party or parties objecting to an instruction shall file a written objection to such instruction. The form of the objection shall be as follows:

- (a) Set forth in full the instruction to which the objection is made;
- (b) Provide concise argument and citations to authority explaining why the opposing party's instruction is improper; and
- (c) Set forth in full an alternative instruction, if any.

3. Substance and Format of Instructions: The instructions shall cover all substantive issues. Proposed instructions shall be consecutively numbered. Each proposed instruction shall be typed in full on a separate page and cover only one subject, to be indicated in the title. Citations to the authorities upon which the instruction is based shall be included. Instructions shall be brief, clear, written in plain English and free of argument. Pattern or form instructions shall be revised to address the particular facts and issues of the case.

C. VOIR DIRE AND VERDICT FORMS: No later than ten court days prior to the Pretrial Conference each party shall serve and file proposed questions for jury voir dire and a proposed form of verdict.

D. EXHIBITS:

1. Copies of Exhibits for Other Parties: No later than ten court days prior to the Pretrial Conference, each party shall provide every other party with one set of all proposed exhibits, charts, schedules, summaries, diagrams and other similar documentary materials to be used in its case in chief at trial, together with a complete list (**see attached form**) of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries. Each item shall be pre-marked with an exhibit sticker (see attached form), plaintiff's exhibits with numbers, defendant's exhibits with letters or with numbers sequenced to begin after plaintiff's exhibit numbers. If there are numerous exhibits, they should be provided in three-ring binders with marked tab separators. All exhibits which have not been provided as required are subject to exclusion.

2. Stipulations Re: Admissibility: Prior to the Pretrial Conference, the parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at the Pretrial Conference. If stipulation to admission in evidence is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

3. Copies of Exhibits for the Court: One set of exhibits shall be provided to the Court on the first day of trial. Each set shall be in binders, tabbed and indexed.

4. Disposition of Exhibits after Trial: Upon the conclusion of the trial, each party shall file its exhibits in accordance with Civil Local Rule 5-1(g).

F. WITNESSES:

1. Jury Trials: The Pretrial Conference Statement shall include a list of witnesses likely to be called at trial, other than solely for impeachment or rebuttal. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

2. Non-Jury Trials: Each party shall include as an exhibit to the Pretrial Conference Statement a list comprising a brief outline of the proposed direct testimony of each witness under that party's control.

G. MOTIONS IN LIMINE: Motions in limine are limited to motions to exclude specific items of evidence (i.e., specific testimony or exhibits) on a ground and upon such authority as would be sufficient to sustain an objection to such evidence at trial.

1. Motions in limine shall be filed and served no later than **ten court days** prior to the date set for the Pretrial Conference. Any party opposing such a motion in limine shall file and serve its opposition papers no later than **five court days** prior to the Pretrial Conference. No reply papers will be considered.

2. Each motion in limine and each opposition thereto, shall be individually numbered and filed as a separate document.

H. LIST OF EXHIBITS WITH STIPULATIONS AND OBJECTIONS: No later than **one court day** prior to the Pretrial Conference the parties shall file with the Court a list of all exhibits admitted by stipulation; and a list of all exhibits as to which objections have been made, with a brief notation indicating which party objects and for what reason.

I. OTHER PRETRIAL MATTERS

1. Settlement Conferences - Any party utilizing another form of Alternative Dispute Resolution who wishes to arrange a settlement conference before a judge or magistrate judge thereafter may do so by contacting the Courtroom Deputy.

2. Daily Transcripts - If transcripts will be requested during or immediately after trial, arrangements must be made with the court reporter at least **one week** before trial commences.

Attachments

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. C - MMC DATE:

_____ v. _____

EXHIBIT LIST

() Plaintiff

() Defendant

[illegible]

<p>Case No. _____</p> <p>PLTF Exhibit No. <u>1</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>A</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>2</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>B</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>3</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>C</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>4</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>D</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>5</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>E</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>6</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>F</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>

EXHIBIT F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARIBETH STENCEL,
Plaintiff,

v.

LYFT, INC.,
Defendant.

Case No. 24-cv-01535-MMC

PRETRIAL PREPARATION ORDER

It is hereby **ORDERED** pursuant to Federal Rules of Civil Procedure and the Local Rules of this Court:

JURY TRIAL DATE: Monday, April 13, 2026 at 9:00 a.m., Courtroom 7, 19th floor.

TRIAL LENGTH is estimated to be 5 to 10 days.

DISCOVERY PLAN: Per Federal Rules of Civil Procedure and Local Rules, subject to any provisions below.

NON-EXPERT DISCOVERY CUTOFF: June 27, 2025.

DESIGNATION OF EXPERTS:

Plaintiff: No later than August 1, 2025.

Defendant: No later than September 26, 2025.

Parties shall conform to Federal Rule of Civil Procedure 26(a)(2).

EXPERT DISCOVERY CUTOFF: November 21, 2025.

DISCOVERY MATTERS, unless otherwise ordered, will be referred to a Magistrate Judge.

DEADLINE TO AMEND PLEADINGS: November 1, 2024.

DAUBERT/DISPOSITIVE MOTIONS shall be filed no later than December 12, 2025.
Opposition due January 2, 2026; Reply due January 16, 2026; Hearing to be held February 6, 2026 at 9:00 a.m..

PRETRIAL CONFERENCE DATE: March 31, 2026 at **10:00 a.m.**

COUNSEL WHO INTEND TO TRY THE CASE MUST ATTEND THE PRETRIAL CONFERENCE. Counsel shall be prepared to discuss all aspects of the case, including settlement. Pretrial shall conform to the attached instructions.

MEET AND CONFER (Civil L.R. 16-10(b)(5): Lead trial counsel shall meet and confer no later than February 23, 2026.

FURTHER STATUS CONFERENCE: Friday, December 12, 2025 at 10:30 a.m.

FURTHER STATUS CONFERENCE STATEMENT DUE: Friday, December 5, 2025.

ADDITIONAL ORDERS:

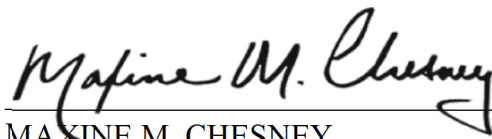
Case referred to Private Mediation by agreement of the partes.

Initial Rule 26 Disclosures due October 4, 2024.

See attached Pretrial Instructions.

PLAINTIFF IS ORDERED TO SERVE A COPY OF THIS ORDER ON ANY PARTY SUBSEQUENTLY JOINED IN THIS ACTION.

Dated: July 29, 2024



MAXINE M. CHESNEY
Senior United States District Judge

(Revised 05/2024)

PRETRIAL INSTRUCTIONS

In advance of complying with the following pretrial requirements, for the purpose of preparing for the Pretrial Conference and to discuss settlement, counsel SHALL meet and confer in good faith and no later than the meet and confer deadline set forth in the attached order.

A. PRETRIAL STATEMENT: No later than **ten court days** before the scheduled Pretrial Conference, the parties shall file a joint Pretrial Statement which shall set forth:

1. The substance of the action;
2. The relief claimed, including the particular elements of the damages claimed;
3. The factual issues remaining, as well as any stipulations of fact;
4. The legal issues, including a concise statement of each disputed point of law concerning liability or relief and citing supporting statutory and case law;
5. A current estimate as to the length of the trial;
6. The status of the case with respect to alternative dispute resolution.
7. A list of witnesses likely to be called at trial. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

B. JURY INSTRUCTIONS:

1. **Joint Set of Agreed Upon Instructions:** The parties shall jointly prepare a set of **agreed upon** jury instructions, which shall be filed **ten court days** prior to the Pretrial Conference.

2. **Separate Instructions:** Separate instructions may be submitted only as to those instructions upon which the parties cannot agree. Each separate instruction shall note on its face the identity of the party submitting such instruction. Separate instructions shall be filed **ten court days** prior to the Pretrial Conference.

No later than **ten court days** prior to the Pretrial Conference, the party or parties objecting to an instruction shall file a written objection to such instruction. The form of the objection shall be as follows:

- (a) Set forth in full the instruction to which the objection is made;
- (b) Provide concise argument and citations to authority explaining why the opposing party's instruction is improper; and

(c) Set forth in full an alternative instruction, if any.

3. Substance and Format of Instructions: The instructions shall cover all substantive issues. Proposed instructions shall be consecutively numbered. Each proposed instruction shall be typed in full on a separate page and cover only one subject, to be indicated in the title. Citations to the authorities upon which the instruction is based shall be included. Instructions shall be brief, clear, written in plain English and free of argument. Pattern or form instructions shall be revised to address the particular facts and issues of the case.

C. VOIR DIRE AND VERDICT FORMS: No later than ten court days prior to the Pretrial Conference each party shall serve and file proposed questions for jury voir dire and a proposed form of verdict.

D. EXHIBITS:

1. Copies of Exhibits for Other Parties: No later than ten court days prior to the Pretrial Conference, each party shall provide every other party with one set of all proposed exhibits, charts, schedules, summaries, diagrams and other similar documentary materials to be used in its case in chief at trial, together with a complete list (**see attached form**) of all such proposed exhibits. Voluminous exhibits shall be reduced by elimination of irrelevant portions or through the use of summaries. Each item shall be pre-marked with an exhibit sticker (see attached form), plaintiff's exhibits with numbers, defendant's exhibits with letters or with numbers sequenced to begin after plaintiff's exhibit numbers. If there are numerous exhibits, they should be provided in three-ring binders with marked tab separators. All exhibits which have not been provided as required are subject to exclusion.

2. Stipulations Re: Admissibility: Prior to the Pretrial Conference, the parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at the Pretrial Conference. If stipulation to admission in evidence is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

3. Copies of Exhibits for the Court: One set of exhibits shall be provided to the Court on the first day of trial. Each set shall be in binders, tabbed and indexed.

4. Disposition of Exhibits after Trial: Upon the conclusion of the trial, each party shall file its exhibits in accordance with Civil Local Rule 5-1(g).

F. WITNESSES:

1. Jury Trials: The Pretrial Conference Statement shall include a list of witnesses likely to be called at trial, other than solely for impeachment or rebuttal. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

2. Non-Jury Trials: Each party shall include as an exhibit to the Pretrial Conference Statement a list comprising a brief outline of the proposed direct testimony of each witness under that party's control.

G. MOTIONS IN LIMINE: Motions in limine are limited to motions to exclude specific items of evidence (i.e., specific testimony or exhibits) on a ground and upon such authority as would be sufficient to sustain an objection to such evidence at trial.

1. Motions in limine shall be filed and served no later than **ten court days** prior to the date set for the Pretrial Conference. Any party opposing such a motion in limine shall file and serve its opposition papers no later than **five court days** prior to the Pretrial Conference. No reply papers will be considered.

2. Each motion in limine and each opposition thereto, shall be individually numbered and filed as a separate document.

H. LIST OF EXHIBITS WITH STIPULATIONS AND OBJECTIONS: No later than **one court day** prior to the Pretrial Conference the parties shall file with the Court a list of all exhibits admitted by stipulation; and a list of all exhibits as to which objections have been made, with a brief notation indicating which party objects and for what reason.

I. OTHER PRETRIAL MATTERS

1. Settlement Conferences - Any party utilizing another form of Alternative Dispute Resolution who wishes to arrange a settlement conference before a judge or magistrate judge thereafter may do so by contacting the Courtroom Deputy.

2. Daily Transcripts - If transcripts will be requested during or immediately after trial, arrangements must be made with the court reporter at least **one week** before trial commences.

Attachments

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. C - MMC

DATE:

V.

EXHIBIT LIST

() Plaintiff

() Defendant

[illegible]

<p>Case No. _____</p> <p>PLTF Exhibit No. <u>1</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>A</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>2</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>B</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>3</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>C</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>4</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>D</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>5</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>E</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>
<p>Case No. _____</p> <p>PLTF Exhibit No. <u>6</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>	<p>Case No. _____</p> <p>DEFT Exhibit No. <u>F</u></p> <p>Date Admitted _____</p> <p>Signature _____</p>

EXHIBIT G

Transcript of Proceedings

In re: Uber Rideshare Cases

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN FRANCISCO
3 BEFORE THE HONORABLE ETHAN P. SCHULMAN, JUDGE PRESIDING
4 DEPARTMENT NUMBER 304

5 ---oOo---

6 COORDINATION PROCEEDING) No. CJC-21-005188
7 SPECIAL TITLE (Rule 3.550))
8 In Re Uber Rideshare Cases)

9
10
11
12 REPORTER'S TRANSCRIPT OF PROCEEDINGS
13 HEARING FOR MOTION FOR NEW HEARING DATE TO ENTER PROPOSED
14 COMMON BENEFIT ORDER, MOTION TO BE RELIEVED AS COUNSEL,
15 MOTION TO QUASH DEPOSITION SUBPOENA, and
16 CASE MANAGEMENT CONFERENCE
17 Tuesday, October 22, 2024

18
19
20
21
22
23 STENOGRAPHICALLY REPORTED BY:
24 Angela Pourtabib, CSR No. 13714, RPR
25 JOB NO. 10144932

Transcript of Proceedings

In re: Uber Rideshare Cases

1 APPEARANCES

2

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Transcript of Proceedings

In re: Uber Rideshare Cases

1 APPEARANCES (Continued)

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Transcript of Proceedings

In re: Uber Rideshare Cases

1 Tuesday, October 22, 2024 1:30 p.m.

2 P R O C E E D I N G S

3 ---oOo---

4 THE COURT: Good afternoon, everybody. These are
5 the Uber Rideshare Cases. We have a lot of participants,
6 but may I have appearances, at least, from those from whom
7 I can expect to hear this afternoon?

8 MR. LEVIN: Bill Levin for the plaintiffs.

9 MR. CUTTER: Brooks Cutter for the plaintiffs.

10 MR. CUBBERLY: Walt Cubberly for the plaintiffs.

11 MR. WILLIAMS: John Eddie Williams for the
12 plaintiffs.

13 MR. ATKINS: Robert Atkins for Uber.

14 MS. RUBIN: Jacqueline Rubin for Uber.

15 MS. PHILLIPS: Jessica Phillips for Uber.

16 MR. SHORTNACY: Michael Shortnacy for Uber.

17 MR. SMITH: Kyle Smith for Uber.

18 THE COURT: And please do remember to identify
19 yourself each time for the reporter's sake. Each time you
20 speak.

21 So we have a lot to cover this afternoon. Let me
22 tell you what is on my to-do list and the order in which I
23 intend to cover it. But as always, I will accept friendly
24 amendments to the extent anybody wants to present any.

25 So there is an amended motion to quash a

Transcript of Proceedings

In re: Uber Rideshare Cases

1 deposition subpoena as to Plaintiff Jane Doe WHBE 5. The
2 court circulated a tentative ruling on that motion
3 granting the motion, and I want to take that first, if we
4 may.

5 Actually, I'm going to already interrupt myself
6 and change the order. Take it back.

7 There is a proposed common benefit order. I want
8 to take that up quickly. I don't think that will take
9 much time, but let's do that first and then turn to the
10 amended motion to quash. There is, third, the question of
11 the bellwether selection. The court, again, circulated a
12 written tentative ruling selecting four cases and the
13 order of trial and raising certain issues, and that, I
14 think, will probably take the bulk of our time today.

15 And then fourth and penultimate, there is a
16 motion, I think, by Mr. Levin's firm to withdraw as
17 counsel. I'd like to take that up in camera at the very
18 end of the hearing so we can excuse everybody before we
19 take that up. So I guess that is ultimate rather than
20 penultimate.

21 And then, finally, I just have a couple of
22 ministerial matters for the parties with respect to cases
23 that -- add-on cases, essentially. Cases that have been
24 included in these proceedings. And my review of the
25 already quite extensive docket suggests to me I may have

Transcript of Proceedings

In re: Uber Rideshare Cases

1 missed a couple, and I just want to ask for your help on
2 that.

3 So let's -- and then, of course, if there are
4 other items.

5 Mr. Atkins, do you want to offer an amendment
6 already? Go ahead.

7 MR. ATKINS: We have an issue pertaining to the
8 applicability of the forum non conveniens decision to
9 about 400 cases. I think the parties are -- I think we're
10 in accord except with respect to maybe 15 or so. And we'd
11 like to be heard on that and hopefully be able to resolve
12 that.

13 THE COURT: All right. Anybody else have
14 anything to add?

15 MR. LEVIN: If we can get while we're all here,
16 perhaps, a report on where we are discovery wise since
17 we're all gathered.

18 THE COURT: Certainly.

19 MR. LEVIN: Okay.

20 THE COURT: Yeah. No, I certainly had that in
21 mind.

22 MR. LEVIN: Okay. Thank you.

23 THE COURT: Thank you.

24 So with respect to the common benefit order,
25 the -- I've reviewed the common benefit order that is in

Transcript of Proceedings

In re: Uber Rideshare Cases

1 place and that Judge Breyer entered in the MDL litigation.
2 There was initially a motion to adopt a common benefit
3 order here and then an amended motion with an amended
4 proposed order that I received within the last few days if
5 I remember correctly.

6 I have not, in all candor, had a chance to
7 compare the amended order to the order that was previously
8 proposed, so what I'd like to know are two things.

9 Number 1, Uber, with respect to the previously
10 proposed order, took no position on that, and I'd like to
11 know whether that has changed and, for that matter,
12 whether anybody is opposing the proposed order.

13 And then, second, I'd like just a brief summary
14 if somebody is prepared to give it to me as to what the
15 recent changes were that were made because, as I say,
16 unfortunately, I've had -- I've not had an opportunity to
17 review the most recent version.

18 MR. SMITH: Kyle Smith for the Uber defendants.

19 The Uber defendants are in the same boat as
20 Your Honor. We're reviewing the revised order. I think
21 there was a lot of red lining, if you will, but it was --
22 appeared to be stylistic. But we're still going through
23 it to identify if there's any issues. None identified as
24 yet.

25 I'd be a little bit surprised if there are any to

Transcript of Proceedings

In re: Uber Rideshare Cases

1 raise, but we just need a little more time to formulate a
2 position.

3 THE COURT: Okay. I guess what I'm going to
4 suggest, though, just to be very practical here, is that I
5 give you a deadline to do that by which if I haven't heard
6 anything, I will then enter the order because it's
7 something that's important that we get in place. How long
8 do you need for that?

9 MR. SMITH: Would a week be acceptable for
10 Your Honor?

11 THE COURT: That's exactly what I was going to
12 suggest if that's acceptable to the plaintiffs' side.
13 Unless I receive written objections from Uber or, for that
14 matter, any counsel prior to October 29th, assuming that
15 I'm comfortable with it, the order will be entered at that
16 time.

17 MR. SMITH: Thank you.

18 THE COURT: So, Mr. Levin, did you want to tackle
19 whatever the most recent changes are?

20 MR. LEVIN: Yes, Your Honor.

21 THE COURT: Just by way of brief summary.

22 MR. LEVIN: So the principal difference is the
23 original order had 4 percent to be held back for fees.

24 THE COURT: The holdback.

25 MR. LEVIN: And 1 percent for costs.

Transcript of Proceedings

In re: Uber Rideshare Cases

1 THE COURT: Right.

2 MR. LEVIN: After negotiations and discussions
3 with MDL leadership, we both in both courts agreed to
4 adjust that to 7 percent holdback for fees and 2 percent
5 costs, which is what's reflected in Judge Breyer's
6 Pretrial Order 19 and now in yours.

7 THE COURT: Got it.

8 MR. LEVIN: The other differences are -- I would
9 call them all administrative, but they didn't exist
10 before. Have to do with how both leadership groups will
11 work together to review common benefit time and identify a
12 common special master to resolve disputes. And the fact
13 that any work done in either forum will count if it's
14 truly common benefit, but that you shouldn't submit it
15 twice. Just once. Simple things like that.

16 And if it would be helpful to Your Honor, we
17 could, during this week, submit something that would save
18 you the trouble of reading everything. Sort of like a red
19 line, but...

20 THE COURT: If it's easy to submit a red line,
21 that would be great. If not, I'm happy to defer, I mean,
22 frankly, to Judge Breyer and to you-all as a group. I
23 take it, though, that what you're representing is all
24 plaintiffs' counsel are on board with this.

25 MR. LEVIN: Well, the two leadership groups are

Transcript of Proceedings

In re: Uber Rideshare Cases

1 all on board, and counsel who are not within leadership
2 have gotten a copy of the proposed order and -- within the
3 JCCP and within the MDL, and as far as I know, there are
4 no objections.

5 THE COURT: Okay. Well, I'll just broaden what I
6 said earlier, which is if anybody has any objections,
7 whether it's Uber or anybody else, they have a week to get
8 them to me, and, otherwise, the order will be entered
9 October 29th.

10 MR. LEVIN: And we'll provide a red line. There
11 are a couple of other cosmetic changes. When we did that
12 pretrial order, Judge Breyer's was Number 18, and now it's
13 Number 19. And so I think if it would benefit Your Honor
14 to provide a red line --

15 THE COURT: Actually, so the one that I read is
16 Pretrial Order Number 12.

17 MR. LEVIN: There's a 12 and then a 19. They're
18 companions. They're not -- one didn't supersede the
19 other.

20 THE COURT: I see.

21 MR. LEVIN: They're, like -- we combined the
22 process points and the holdback in one order. They did it
23 in two steps.

24 THE COURT: Got it.

25 MR. LEVIN: Which are now 12 and 19, not 12 and

Transcript of Proceedings

In re: Uber Rideshare Cases

1 18. So if you'd like, Your Honor, within a matter of
2 days, we can give you a revised order with a red line.

3 THE COURT: That would be great. Thank you.

4 MR. LEVIN: Okay. Thank you.

5 THE COURT: All right. Well, you know, I'm going
6 to revise my order yet again. Order of items just so that
7 we can get through the quick and easy ones.

8 As the -- and I'm going to go to this question of
9 add-on cases just to, again, elicit some help. Mr. Smith
10 is standing up already.

11 As the case has gone on, as everybody is aware,
12 there have been stipulations and proposed orders regarding
13 add-on cases. Many, many, many of them. I've tried to
14 keep up with them, and in each case, to wait the
15 prescribed period under the Rules of Court to see if there
16 are any objections. And if there are none -- and to date,
17 there has been, I believe, only one -- to then enter the
18 order. And as I prepared for today's hearing, it looked
19 to me like I missed two.

20 You're agreeing.

21 MR. SMITH: Yes, Your Honor.

22 THE COURT: And those appear to be the stip and
23 orders that were filed on April 22nd and May 13 of 2024.

24 MR. SMITH: That's what our records reflect,
25 Your Honor. I have copies if that would be helpful.

Transcript of Proceedings

In re: Uber Rideshare Cases

1 THE COURT: So I should enter those orders is the
2 bottom line.

3 MR. SMITH: There were no objections filed to
4 those orders. They were stipulated.

5 THE COURT: That was what I found as well, but
6 I'm just trying to do my job here.

7 MR. SMITH: We appreciate everything Your Honor
8 does in all respects.

9 THE COURT: That was easy. And I have those
10 orders, so I think I can deal with that.

11 Okay. With respect to the amended motion to
12 quash, does Uber want to be heard on the tentative?

13 MR. ATKINS: No, Your Honor. We're going to
14 submit. We're not contesting.

15 THE COURT: All right. Makes my job easier, and
16 makes Mr. Cubberly's job easier.

17 I guess the only thing I would add -- and please
18 regard this as an editorial comment and take it for what
19 it's worth -- is that in cases such as these that involve
20 some sensitivity regarding the alleged conduct, regarding
21 the emotional and physical and psychological state of the
22 plaintiffs regarding the claimed injuries, I think it's
23 particularly important that the court be sensitive to
24 concerns about overbreadth in discovery and that the
25 parties should be mindful of that as well.

Transcript of Proceedings

In re: Uber Rideshare Cases

1 I mean, we've all read about so-called scorched
2 earth discovery tactics. I'm not suggesting that's what
3 happened here. But line drawing is important, and I think
4 it's particularly important in these kinds of cases.

5 Hopefully it's not an issue we'll run up against
6 down the road in even more sensitive contexts, but that's
7 the gloss that I just want to proffer for your
8 consideration.

9 MR. ATKINS: The only thing I'd say, Your Honor,
10 is we hear you. We're mindful, and we've been selective
11 and judicious about it. I mean, obviously, we felt this
12 one stood on different ground, but we really -- we have
13 been thoughtful in our -- you know, in our strategies on
14 discovery with that very much in mind.

15 THE COURT: Okay. I accept that. As I say, I'm
16 not attacking anybody. I'm not finger-pointing here. But
17 I just thought it might be worth just adding that
18 observation.

19 Okay. That, then, I guess, gets us to the main
20 event, which is the bellwether ranking. I spent quite a
21 bit of time on this. It's kind of an interesting
22 balancing process where both sides have proposed multiple
23 factors or variables or criteria, whatever you want to
24 call them, for me to consider.

25 And unlike a lot of the work that I do, there is

Transcript of Proceedings

In re: Uber Rideshare Cases

1 kind of no recipe book, if you will, that tells me in what
2 proportion those ingredients need to be added or what
3 weight they need to be given. So it's really entirely or
4 almost entirely within my discretion.

5 That said, I do have in mind, and I hope the
6 order reflects this, that, you know, both parties'
7 statements were quite thoughtful. Gave me a lot to work
8 with. And I felt it was important, obviously, to give
9 both sides full input into where I come out here, and I
10 also thought it was important, and I tried as best I
11 could, in the time allotted, to explain my reason.

12 So before we get to the associated scheduling
13 issues -- which, as always, may be the most complicated
14 part of any hearing -- I wonder whether either side would
15 like to be heard with respect to the court's bellwether
16 ranking?

17 MR. CUTTER: We accept the court's tentative,
18 Your Honor.

19 THE COURT: Thank you, Mr. Cutter.

20 Mr. Williams?

21 MR. WILLIAMS: John Eddie Williams for the
22 plaintiffs.

23 Judge, do you have a sense of whether you are
24 going to try one case at a time, or is there a chance that
25 we could consolidate some cases for judicial efficiency?

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In re: Uber Rideshare Cases

1 Have you thought that through?

2 THE COURT: I've thought about it. Nobody has
3 raised it. I think the received wisdom is that these
4 cases are -- like personal injury cases, generally are
5 individual and should be tried as such. But I'm certainly
6 open to talking about anything that anybody wants to
7 raise.

8 There -- as I've suggested at the end of the
9 order, there may well be common evidentiary issues. For
10 example, there may be in limine motions that are common to
11 all four cases or however many we end up trying. There
12 may be other legal issues that it might make sense to have
13 some kind of consolidated hearing about.

14 But I had not contemplated a multi-plaintiff
15 trial if that's what you're asking.

16 MR. WILLIAMS: Yes, sir. Okay. It would -- we
17 think that it would, of course, be very efficient -- more
18 efficient to do that. It turns out that the liability
19 should be pretty much the same. The only thing that would
20 change the liability case would be the date of the event
21 because some things that Uber did or didn't do were post
22 that date.

23 THE COURT: Right.

24 MR. WILLIAMS: So, you know, if we were to try
25 different people together, we would like them probably to

Transcript of Proceedings

In re: Uber Rideshare Cases

1 have similar time frames. But I think that there is a lot
2 of efficiency to be gained there if the court would
3 entertain that and think about it.

4 THE COURT: Interesting idea.

5 Mr. Atkins?

6 MR. ATKINS: I think I fall on the side of
7 received wisdom in this instance. I don't think liability
8 is common. I think there are a lot of differences.
9 Causation is substantially different from case to case,
10 depending on what the conduct is. What's the alleged act
11 that was the breach of the duty? Is there some kind of
12 safety feature that they say would have prevented the
13 incident? And we're going to say it wouldn't have. It's
14 going to be different in each case.

15 So, you know, liability is certainly not common.
16 It's the same reason personal injury cases aren't suitable
17 to class action treatment. Those issues aren't common.

18 I think Your Honor's idea that there may be
19 issues -- evidentiary issues, let's say. Maybe even
20 challenges to experts that would run across the cases. I
21 think that's an idea that I think we should collectively
22 pursue.

23 But were the court to consider the notion of
24 multi-plaintiff trials, we obviously would strongly object
25 and expect that to be, you know, a matter for briefing and

Transcript of Proceedings

In re: Uber Rideshare Cases

1 argument. If Your Honor is even inclined to consider it.

2 THE COURT: Well, I'm here to consider anything
3 anybody wants me to consider. I think it's -- well, if
4 you-all think that it really makes a lot of sense and you
5 want to bring a motion, then, by all means, I'll hear it,
6 and I'll decide it. But I'm sort of telling you where I'm
7 -- at least where I'm starting from absent some additional
8 information.

9 Did you want to address, from Uber's standpoint,
10 the ranking, or do you want to leave it, as Mr. Cutter
11 did?

12 MR. ATKINS: We're prepared to leave it.

13 THE COURT: Okay.

14 MR. ATKINS: I think we have other issues. I
15 think the plaintiffs want to raise some issues, and we'll
16 address those. But the ranking, we're not going to
17 contest.

18 THE COURT: Okay. I mean, there was another
19 issue that I struggled a little bit with, frankly, and
20 that was whether, as Uber suggested, I should select six
21 cases on the theory that, you know, one or more of these
22 cases may settle or otherwise resolve at the last minute.

23 I do know from speaking with some of my
24 colleagues around the state that's a practice that some of
25 them follow. Another practice that some of them follow

Transcript of Proceedings

In re: Uber Rideshare Cases

1 that strikes me as riskier, which I'm reluctant to
2 undertake, but I'll just throw it out as long as we're
3 here to discuss all these issues, is that of setting the
4 first two cases on the same day on the theory that one of
5 them will probably settle. That makes me a little
6 nervous, but I suppose it's another approach that, at
7 least, some judges have taken.

8 It just seemed to me this was the cleanest way to
9 do it. And I had enough trouble balancing and weighing
10 all of these different factors once I got to 1 through 4
11 that I didn't really want to tackle 5 and 6, in all
12 candor. But let's see where we go.

13 Okay. So with that, you know, the issue that I
14 raised at the end having to do with discovery really ties
15 very well into what we've just started discussing. And
16 that is maybe it's too early to know now, but I think it's
17 worth starting to discuss the issue now.

18 What are the common issues that the parties think
19 are likely to be raised in these cases that might lend
20 themselves to some kind of a common resolution before the
21 first of the cases is set for trial?

22 Sort of in thinking about this, I sort of thought
23 about it as if we would be doing kind of a law and motion
24 month before the first trial date. Whether, in fact,
25 there will be such overlapping issues. You know, as

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1 Mr. Atkins suggests, maybe there are evidentiary issues.

2 Or expert issues might be another common issue.

3 Maybe it's too early to say, but my concern in
4 looking at the schedule that you-all proposed -- which
5 admittedly -- well, only Uber proposed, which, at this
6 point, I regard as having been sort of sketched in, in
7 pencil.

8 I was concerned about the expedited briefing
9 schedule on dispositive motions and that, in turn, led me
10 to start thinking about this larger issue.

11 Now, I just circulated this -- yesterday?
12 Yesterday. So you-all probably haven't had a chance to
13 talk with one another about these issues. But I don't
14 know. You're all here. It struck me that it might be
15 useful to at least have you start an informal discussion
16 about your reactions to some of this and then set you free
17 at the end of the hearing to talk to one another and see
18 if you can reach a consensus.

19 Mr. Levin, you're nodding. Do you want to take
20 the first shot?

21 MR. LEVIN: Well, I'm not going into the
22 consolidated trials. There are a lot of issues that are
23 common.

24 THE COURT: Right.

25 MR. LEVIN: And there will be legal issues that

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1 are common. There will be evidentiary issues that are
2 common. And they will take time. Your Honor's time. A
3 lot of time.

4 THE COURT: Yup.

5 MR. LEVIN: And time in the courtroom. And so I
6 think having something that takes cognizance of that now
7 is a -- will be very helpful for everyone.

8 I don't know what happens if the four cases
9 you've selected are resolved, but I do think we --
10 Your Honor's time is a precious resource. And if you have
11 time to try these cases, we should have a plan for what
12 happens during the interim if the cases go away because it
13 would be a shame to not have your availability and the
14 court's availability as currently scheduled and
15 contemplated.

16 And we think we can do that because the corporate
17 discovery is what's the most time-consuming.

18 THE COURT: Right.

19 MR. LEVIN: And that's going to be ongoing no
20 matter what. So that's my initial thought.

21 MR. ATKINS: At the risk of repeating myself, I
22 think that it makes sense to think about perhaps there are
23 common evidentiary issues. I could imagine in limine
24 motions perhaps. I think they will likely seek to
25 introduce evidence regarding Uber that we will object to.

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1 You know, historical facts, some of which were in the
2 pleading that Your Honor struck. Some you didn't.

3 So I think there's going to be litigation of
4 what's going to be admitted. That's just one example.

5 THE COURT: Yup.

6 MR. ATKINS: So I think it makes a lot of sense
7 to put time aside. What exactly we would do -- and I
8 confess to having not, you know, thought it through.
9 Certainly not to the end.

10 THE COURT: What about -- again, this is sort
11 of "I'm not going to hold you to it" mode; okay?
12 Dispositive motions. I frankly thought when I -- well, I
13 had a question -- let's put it this way. I had a question
14 mark when I saw it. Are there really dispositive motions
15 here that would knock out one or more claims, or don't all
16 these claims, sort of by their nature, raise questions of
17 fact that are going to have to be decided at trial? What
18 would that look like do you currently anticipate?

19 MR. ATKINS: I can -- I do anticipate that we
20 will have -- that there will be facts admitted by
21 Plaintiffs such that there's no dispute that go directly,
22 for example, to an issue of causation. In a particular
23 case. Not across the cases.

24 THE COURT: Right.

25 MR. ATKINS: So there may be undisputed facts

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1 that we say entitle us to judgment as a matter of law.

2 THE COURT: I.e., it wouldn't have made a
3 difference to me had such and such a proposed safety
4 feature been adopted because of the way that the events
5 unfolded?

6 MR. ATKINS: Right. A good example is some
7 feature inside the car when what happened was far outside
8 the car after the ride, after the app is off. Just by way
9 of example.

10 THE COURT: Got it.

11 MR. ATKINS: So I think there are sort of case
12 specific motions. There may be issues about legal
13 questions about the duty of care and those sort of things
14 that might cut across.

15 THE COURT: Okay.

16 MR. ATKINS: So I think we should anticipate that
17 there will be individualized motions.

18 THE COURT: Okay. Well, it's early days
19 comparatively. But I do think it's worth you-all talking
20 about this and, in particular, thinking about scheduling.
21 And I am -- you know, I appreciate the remarks about the
22 high value ascribed to my time. That is one of the
23 reactions that I had to the briefing schedule, was it not
24 only looked demanding for you-all, but it looked demanding
25 for me if I'm getting a reply brief four days before a

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1 hearing on something that is potentially case dispositive.

2 And it's not like the rest of my docket goes away; right?

3 So that was part of the reason for that comment.

4 But as I said in the tentative, I don't

5 anticipate, obviously, adopting any arbitrary deadlines at

6 this point before you-all have had a chance to kind of

7 thrash this through.

8 And it may be -- depending on how discovery goes,

9 it may be that what you end up suggesting is a more

10 extended dispositive motion briefing schedule. A more

11 extended sort of pretrial motion schedule. Whether it's

12 in limines, or it's Sargon. Whatever it is. On common

13 legal issues.

14 And then have jury selection in Case Number 1

15 start a bit later than we've already slotted it in.

16 Indeed, that may be kind of inevitably where this all goes

17 depending on how quick you are on the discovery.

18 So my schedule at this point remains what I told

19 you before, which is that these cases are set for trial

20 beginning in mid-May. And at the moment, I don't have

21 anything else on my trial calendar until October. That is

22 not necessarily going to remain the case.

23 But I do need to know -- and here is a question

24 that I'd like everybody's best answer to today. Again,

25 recognizing that it's hard to know. A rough estimate for

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1 how long you think each of these individual trials is
2 going to take. Because without knowing that, I don't know
3 how much time to block out on my calendar.

4 Mr. Williams, you got up first.

5 MR. WILLIAMS: Judge, obviously, the first one
6 will take longer than the rest of them. With that, we've
7 caucused amongst ourselves for the plaintiffs' side, and
8 best guess is 12 to maybe 15 days at first, and maybe ten
9 trial days later.

10 THE COURT: Okay. Want to take a guess,
11 Ms. Rubin?

12 MS. RUBIN: Your Honor, we were, I think,
13 somewhat close. We were saying two to three weeks. So 10
14 to 15 days. And I think at this point, that's probably
15 the best we can give you.

16 THE COURT: Okay. That's fair enough.

17 My -- I haven't had a lot of lengthy trials in
18 this courtroom. The nature of the docket here is that
19 most cases -- not all of them, but most of them resolve.
20 My tentative inclination would be to be in trial four days
21 a week with Fridays dark so that I can handle other
22 matters on my docket. But that's subject to negotiation
23 with you-all, and if that seems objectionable, we can talk
24 about that.

25 You know, two to three weeks is -- it's not eight

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1 weeks or 14 weeks, so it's easier to deal with.

2 MR. CUTTER: I think the other thing, Your Honor,
3 we wanted to take up was you reminded us of the
4 September 5th, 2023, scheduling order.

5 THE COURT: Right.

6 MR. CUTTER: And we certainly think that the --
7 you know, there can be overlap. We agree with the court's
8 suggestion about following the code, obviously, in the new
9 statute on summary judgment briefing. So backing that up.

10 But also, we think that the fact discovery
11 deadline needs to come -- be extended, particularly as we
12 try and coordinate with the MDL on some of these
13 depositions. So it should go from January 15th out at
14 least 30 days and maybe 45.

15 And, similarly, expert disclosure should slide a
16 little bit too. We don't need it that quickly.

17 THE COURT: Well, I anticipate -- maybe I'm
18 wrong. I anticipate you're not going to get much pushback
19 from the other side of the courtroom on those suggestions.
20 But they are part and parcel of what I'm suggesting the
21 parties meet and confer about.

22 And if you want to come back to me with a
23 proposed revised scheduling order or whatever you want to
24 call it, I'm happy to entertain that. I think that makes
25 a lot of sense. There are a lot of moving pieces here,

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1 and it's a little bit difficult to figure out how to make
2 them all work together.

3 MS. RUBIN: Your Honor, as you think that -- I
4 mean, we obviously haven't had a chance to talk together,
5 and I think if the parties can meet and talk about the
6 schedule, we'll be able to come back to you with something
7 that's a little bit more overarching and complete.

8 THE COURT: Good. Okay.

9 MR. LEVIN: Your Honor, I do have one suggestion
10 as I've listened to this. I think we could all benefit,
11 perhaps, from having a -- confer and have a session with
12 you where we sort of round table what really the motions
13 are going to be.

14 Just to give you an example, Mr. Atkins'
15 dispositive motion example -- I don't -- I'm not going to
16 argue the merits of it, but our position would be it
17 doesn't matter whether it happened inside or outside of
18 the car because the camera is a deterrent, and the camera
19 will have a record of whether the ride went as it was
20 supposed to be, and people won't necessarily commit these
21 acts if they know there's an operating camera recording
22 their absence from the car.

23 But, anyway, that's just an example. So I don't
24 want the court, because of your time and resources and all
25 of our time, to just get, like, a lot of motions without

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1 us having to discuss them among ourselves and maybe even
2 informally with Your Honor so that whatever briefing month
3 or whatever it is, is really focused on what we really
4 need to do.

5 THE COURT: I think that makes all the sense in
6 the world, and I can't imagine you're going to disagree,
7 Mr. Atkins.

8 MR. ATKINS: I would never refuse to speak to
9 Mr. Levin. Whether we would agree is a different
10 question.

11 THE COURT: Fair enough. Or to me, I take it.

12 Yeah. No, I'd be happy to do that. I think that
13 makes a lot of sense. I have a lot to learn here. I
14 mean, I dealt with the pleading issues and various
15 procedural issues, but, you know, we're getting close to
16 the time where I'm going to have to start -- I'm going to
17 have to start dealing with some of the merits issues, and
18 I'm going to look to you-all to educate me on those.

19 And I can certainly anticipate there will be
20 difficult issues to be tackled. I've already seen that --
21 well, I'll leave it at that.

22 What I was going to say is I've already seen some
23 of Judge Breyer's orders, and I have enormous respect for
24 Judge Breyer, and I can already anticipate that, you know,
25 there are likely to be common issues that arise in both

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1 courts. And I may be looking to see what he says. I
2 don't think he's going to be looking to see what I say,
3 but -- so there is plenty of room for discussion here.

4 Okay. Is there more -- well, just to flesh it
5 out, Mr. Levin, you suggested that we talk at least
6 briefly about where things stand on the discovery front,
7 and that would be useful to me to understand, at least, by
8 way of background for any later scheduling discussion that
9 we have. Do you want to take a shot at surveying the
10 landscape?

11 It looks like a number but not all of the
12 plaintiffs in the bellwether discovery pool have had their
13 depositions taken.

14 MR. LEVIN: I think that's true, but I don't
15 think that's going to cause any scheduling problems. I
16 think we'll get them all --

17 THE COURT: No. It's all the documents and the
18 corporate stuff.

19 MR. LEVIN: The documents -- they have produced
20 265,000 documents. They continue to produce documents.
21 There's documents that are being produced to the MDL also.
22 That's an ongoing process, but I don't believe we need the
23 court's assistance at the moment.

24 Depositions -- and Mr. Abramson has been the
25 central person as a member of both leadership groups on

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1 trying to coordinate the depositions. And without being
2 critical of Uber, who I think is trying to get dates for
3 the deponents, the simple fact is that we've taken part of
4 three depositions in a universe where we could debate the
5 final number, but the final number is much higher than
6 that. And at the current pace of, you know, one a week, I
7 don't see where we get where we need to be.

8 And I realize they're balancing their schedules
9 and the witness schedules and travel and all the rest of
10 it. So it's not a criticism, but we do need a faster
11 pace, and we may need Your Honor's help to get there.

12 I don't know if you have anything to add to that.

13 MR. ABRAMSON: Yeah, I can add.

14 You can respond to --

15 MR. ATKINS: I just want to respond to --

16 THE COURT: Well, I'll hear from Mr. Abramson
17 first, and then you can respond to both of them.

18 MR. ABRAMSON: Okay. So just a couple issues.
19 And, again, talking just about kind of general corporate
20 discovery as distinguished from case specific.

21 THE COURT: Right.

22 MR. ABRAMSON: So as Mr. Levin said, we've taken
23 parts of three depositions. There are eight other
24 depositions that are currently set with dates that are
25 defined. There are --

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1 THE COURT: In 2024?

2 MR. ABRAMSON: In -- well, in 2024 or before the
3 current discovery cutoff of January 15.

4 THE COURT: Right.

5 MR. ABRAMSON: There are seven other witnesses
6 who we've sent notices to. We are waiting on -- we
7 proposed dates more as placeholders to try to work with
8 Uber to find dates.

9 For four of those, we're waiting on dates. For
10 three of them, just to flag other issues for Your Honor,
11 they've raised apex related issues. That gets into the
12 kind of scheduling crunch with apex type arguments, as you
13 might imagine. So flagging that for Your Honor.

14 We're supposed to meet and confer tomorrow.
15 Mr. Smith and I talked even before this hearing. So we're
16 having an ongoing dialogue about that, but flagging it for
17 you.

18 We also have sent yesterday six PMK notices. I
19 think that Uber would probably -- we tried to make them
20 topic focused. So there's a PMK on stats. There's a PMK
21 on the safety report. There's a PMK on deactivation
22 policies. And as you might imagine, within each PMK,
23 there are several topics.

24 We didn't even propose a date. You know, the
25 thought was, "Here are the notices. Let's meet and confer

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1 about them. Let's talk about topics. If there is some,
2 you know, argument about the -- whether a particular topic
3 is ripe or, you know, can go forward, you know, we can
4 talk about that, and we're willing to."

5 But we wanted to give those plenty of time so we
6 could get those set. So that's going to be of primary
7 importance.

8 I don't know if there's going to be issues with
9 that, but I wanted to flag that for Your Honor so that you
10 knew that those PMKs were out, and we're going to need to
11 get those taken care of before the discovery cutoff.

12 THE COURT: I suppose it's possible that some of
13 the -- once you-all thrash out the topics, that some of
14 the PMK witnesses may overlap with the other witnesses
15 whom you've already noticed for deposition. That might
16 boil some of this down a little bit.

17 MR. ABRAMSON: Absolutely. And we're willing to
18 talk to them about that. We just gave them the topics
19 yesterday, so it's not to put them on the spot about that
20 because I'm sure they haven't even had time to look at
21 those.

22 But, yeah, the idea is if there are certain
23 witnesses who can cover certain topics, we can take them
24 individually and in their corporate capacity at the same
25 time to try to make it more efficient.

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1 THE COURT: Good.

2 MR. ABRAMSON: The other issue to flag is
3 coordination. So as Mr. Levin said, I am in leadership in
4 both litigations, and I think all parties really have been
5 trying to work to coordinate these depositions. The primary
6 issue right now is really not involving the JCCP. It's
7 involving Uber and the MDL.

8 And the dispute is about privilege logs
9 primarily. I'm not saying there is not other issues, but
10 the privilege logs that Uber has produced for deponents,
11 without going into the merits of them, they're voluminous,
12 and there are a lot of challenges from the MDL as to
13 privilege issues.

14 In the MDL, without a trial deadline looming, is
15 not of the mind that they want to move forward with
16 depositions prior to getting those issues worked out and
17 resolved by Judge Cisneros or Judge Breyer.

18 Whereas, in our situation, taking Your Honor's
19 guidance from the last time, we need to plow forward. If
20 privilege issues come up and are de-designated, we'll come
21 back and revisit it, and maybe we get some more time with
22 those documents. We figured, you know, we're just doing
23 the best -- everyone is doing the best they can with their
24 time.

25 THE COURT: I'm sorry to interrupt. Are there

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1 trial dates set at this point in the MDL?

2 MR. ABRAMSON: There are not.

3 THE COURT: That's what I thought. Okay. I have
4 looked at the website occasionally, but --

5 MR. ABRAMSON: Yeah. So there are not currently,
6 but -- so for coordinating depositions, right now, these depositions,
7 while we're, the JCCP, open to coordinating any of these
8 depositions if those issues can get worked out, what we're not
9 open to doing is pushing back these dates that may impact
10 our ability to move forward with trial dates.

11 And the MDL is very understanding of that. And
12 so we have been -- these last few depositions have been JCCP
13 only. The ones that are set, at least, right now, they
14 may be coordinated. They may not. It's going to largely
15 depend on whether the MDL and Uber are able to work out
16 these privilege issues so that the MDL is comfortable
17 moving forward with these depositions at this time before
18 getting all the documents they feel they're entitled to.

19 So just flagging that. I don't think it's an
20 issue right now because we do have dates, and, hopefully,
21 we're getting more dates, but I know it's something we've
22 all been trying to work towards and haven't -- just
23 haven't gotten there for a variety of reasons.

24 THE COURT: Do you-all have a status conference
25 coming up with Judge Breyer or Judge Cisneros where some

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1 of these issues might get surfaced?

2 MR. ABRAMSON: There is a hearing with
3 Judge Cisneros tomorrow. Mr. Shortnacy would probably
4 know better than I do if that's going to be discussed --
5 if those issues are going to be discussed tomorrow. I
6 think they are.

7 MR. SHORTNACY: I expect they will, Judge. They
8 were in the joint status report we submitted to
9 Judge Cisneros.

10 MR. ABRAMSON: So those issues will hopefully get
11 flagged and worked out, and to the extent that they can
12 get worked out in time, we can coordinate. If they will.
13 If they can't, then we won't.

14 So that's kind of where we are on discovery
15 unless you have any other questions.

16 THE COURT: I want to hear from Mr. Atkins, but
17 other than that, thank you.

18 MR. ATKINS: I don't think we're terribly far
19 apart. I just might put it a slightly different way. So
20 there are -- with respect to every notice we've received,
21 save for the PMQ, which came in last night --

22 THE COURT: Right.

23 MR. ATKINS: -- or PMK. We have -- they either
24 have been taken, will be taken, have been scheduled, or a
25 couple where we owe them dates. And then, as Mr. Abramson

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1 said, there are a couple we're going to move on apex
2 grounds.

3 But every notice that we've gotten for a person
4 has been teed up for a deposition. Or it's already
5 happened. So we're in good shape there.

6 With respect to the MDL, it's disappointing
7 because we worked very hard to coordinate them, and then
8 at the last minute, over the last couple weeks, we heard
9 from the MDL that they're not going to show up. We had
10 booked two days for all these witnesses, which took a lot
11 of effort to find two days that worked, and we suddenly
12 got a letter saying, you know, "We're not going to show
13 up."

14 So they've sort of, you know, decoupled,
15 de-coordinated, and we will deal with that.

16 But we are making progress with the JCCP lawyers
17 and leadership, and we've had one-day depositions of seven
18 hours, and it's been effective and productive. And, you
19 know, in my point of view, those depositions are done.

20 And we'll deal with the MDL leadership if and
21 when they decide they're ready to take depositions. We'll
22 have -- obviously, you know, we have issues there. We
23 have objections there. We're obviously having this tussle
24 about documents.

25 But just so I wanted Your Honor to understand, we

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1 have been operating on a coordinated basis, but not
2 necessarily with a partner. And it's unfortunate. And,
3 you know, they have a different agenda, different
4 approach.

5 But in terms of the JCCP, everything is underway,
6 and I expect to tee up these apex motions either next week
7 or the week after. Just a couple.

8 THE COURT: Okay.

9 MR. ATKINS: Okay. Thank you, Your Honor.

10 THE COURT: Are there -- so the other issues on
11 my list that we were going to talk about were the
12 forum non conveniens issue and then the motion to withdraw
13 as counsel, but before I go to those, are there other
14 issues that either side wants to raise or think it would
15 be productive to discuss at this point?

16 MR. LEVIN: Well, I tried to allude to it earlier
17 with Your Honor's schedule, timing, resources, and the
18 like. I think we should have a plan for what happens in
19 May when Your Honor is ready to try a case and we've
20 resolved all these MILs and evidentiary issues, if, for
21 some reason -- either on a dispositive motion or a
22 settlement -- we don't have four or we don't have three or
23 we don't have two, I mean, we do now have half a year to
24 identify replacements. And we have not -- we don't have a
25 plan in place for that. We don't have a disagreement

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1 about a plan.

2 But I do think both sides are cognizant of the
3 fact that we should have something in place that will tell
4 everybody what happens in May if, for some reason, one or
5 more cases disappears.

6 And Your Honor has the summer, and the lawyers
7 have the summer, and we have rulings on legal issues, and
8 we're ready to go, it would be -- it would not be a good
9 thing, from our point of view, if the reason we're not
10 ready to go is because there isn't a plaintiff who has
11 been deposed, for example.

12 THE COURT: Well, so, I mean, that raises a
13 couple of possibilities; right? One is that I do select,
14 you know, cases 5 and 6 as sort backups here so that those
15 would rise in the ranking in the event that 1 and 2
16 resolve, hypothetically, and then you'd know where to go.

17 The other possibility, I suppose, would be
18 advancing trials. Some of that's going to depend on the
19 availability of witnesses.

20 But to the extent, for example, there are
21 overlapping experts, presumably, the experts could make
22 themselves available. The larger question might be
23 percipient witnesses or the plaintiffs themselves.

24 I mean, if both sides want me to. As I say, I
25 sort of ran out of steam trying to balance your respective

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1 submissions, but if you want me to, I can pick cases 5 and
2 6, and then we'll just know. And maybe that would solve
3 the problem.

4 MS. RUBIN: Your Honor --

5 MR. CUTTER: I mean, I think the -- I think the
6 important principle the court establishes is if one of
7 Plaintiffs' picks is resolved or dismissed, then we
8 replace it. Nominate replacements. The defense nominates
9 if one of their picks is dismissed; right?

10 THE COURT: Yeah, although, I suppose,
11 hypothetically -- right? -- picks 1 and 3 right now are
12 Plaintiffs' picks. What if cases 1 and 3 resolve? Then
13 what do we do? I mean, I haven't thought these issues
14 through, frankly.

15 MR. CUTTER: We would replace those.

16 THE COURT: It depends on when; right? And, you
17 know, part of Uber's point, I think, was to say, "Gee, if
18 we don't prioritize discovery on hypothetical cases 5 and
19 6 now, then if the case resolves on the courthouse steps,
20 we won't be ready to go on cases 5 and 6 because we don't
21 even know which ones those are."

22 (Reporter clarification.)

23 THE COURT: I'm sorry. Is somebody who is
24 appearing remotely speaking? If so, please identify
25 yourself.

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1 MR. CUTTER: I think they muted themselves.

2 THE COURT: Okay. I mean, maybe this is worth a
3 couple more minutes discussion because it's a potential
4 problem, and it's not a purely hypothetical one. It
5 happens; right?

6 MR. ATKINS: Right. The challenge is -- I think
7 this is what you're getting at -- is what 5 and 6 should
8 be. If you want to call it the alternates --

9 THE COURT: Right.

10 MR. ATKINS: -- will depend on what cases, if
11 there are any, get resolved. Because I think Your Honor
12 and the parties to some extent are trying to get a
13 representative spectrum of cases.

14 So, you know, let's just call it type A gets
15 resolved; right? Substituting type C may not really serve
16 the purposes of bellwethers.

17 THE COURT: Right.

18 MR. ATKINS: So it's not obvious that what
19 Your Honor should do is simply pick, you know, two more
20 because they may not be the right mix. So what I would
21 suggest at the risk of trying to dodge Your Honor's
22 question is that we spend some time together thinking
23 about it. Maybe we can come up with a joint approach.
24 Maybe we can, and submit it to Your Honor for
25 consideration. It's not a today issue.

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1 THE COURT: Okay. Fair enough.

2 Other issues before we go to the forum non

3 conveniens problem?

4 MR. LEVIN: I don't think so, Your Honor.

5 THE COURT: Okay. What is the problem, and how

6 are we going to decide it?

7 MR. SMITH: Kyle Smith for the Uber defendants.

8 There is not much of a problem from our point of

9 view. There were about 400 cases that involved incidents

10 outside the state of California which came into this

11 coordinated proceeding after Your Honor's rulings on forum

12 non conveniens.

13 THE COURT: Okay.

14 MR. SMITH: And the stipulated procedure was

15 everyone would get together once the appellate process is

16 done and determine, you know, whether there's a

17 stipulation that the prior rulings govern those cases or

18 not.

19 We've undertaken to confer with Mr. Cubberly and

20 made, I think it's fair to say, reasonable progress in

21 identifying about -- I'll call it 380 or so of those cases

22 where there's no argument that Your Honor's rulings

23 wouldn't govern.

24 There are 15 or 20 or so cases where Mr. Cubberly

25 has asserted, "Well, this plaintiff is actually -- was or

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1 is now a California resident even though the incident took
2 place elsewhere," and so there may be a point of dispute
3 about whether Your Honor's analysis actually controls in
4 that circumstance.

5 I think in the end, there might only be a couple
6 cases where we really can't find agreement, but be that as
7 it may, it's sort of a maximum universe of about 20.

8 So what Uber proposes is to submit to Your Honor
9 the list of the -- call it the 380 where there's been no
10 ground for disputing the applicability of the order
11 articulated and ask Your Honor to enter an order deeming
12 the earlier rulings applicable to those cases.

13 And we would assume that would be an unopposed
14 application. I haven't heard --

15 THE COURT: Why don't you just make a joint
16 stipulation and proposed order and then there's no
17 question about it?

18 MR. CUBBERLY: Judge, we will not stipulate to a
19 dismissal. If the court orders it, that's one thing. But
20 that's one of the lessons we learned on this appeal. I
21 can't stipulate to that.

22 THE COURT: Well, there was a prior stipulation,
23 which the Court of Appeal read pretty clearly, disagreeing
24 -- I recognize disagreeing with your position on appeal,
25 but there's now law of the case on this.

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1 MR. CUBBERLY: Understood, but what I'm saying is
2 if the court orders it, the court orders it. I don't want
3 to stipulate to a dismissal of my client's case is all I'm
4 saying.

5 THE COURT: Okay. Well, can you at least agree
6 on the -- if it's 380, the 380 cases that fall within
7 certain criteria and then leave it to me to order what
8 happens to them?

9 MR. CUBBERLY: We can.

10 THE COURT: I'm happy to give you that leeway.

11 MR. CUBBERLY: Thank you.

12 THE COURT: I understand the concern.

13 MR. CUBBERLY: Okay.

14 MR. SMITH: So with that in mind, we'll plan to
15 get a submission to the court on the 380. We'll continue
16 conferring with Mr. Cubberly on -- call it the 20. Try to
17 whittle that down, ideally, to 0. There may be a few
18 cases with fact patterns that no one can really agree on
19 how the court's prior rulings are going to apply to them
20 or not. They may be matters that need to be -- just be
21 set off to the side given everything that's happening with
22 getting ready for trial.

23 But that was our proposed plan for dealing with
24 that part of the docket.

25 THE COURT: Okay. All right. That sounds

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1 reasonable to me.

2 MR. CUBBERLY: Do you want to hear from me,
3 Your Honor, on this?

4 THE COURT: I thought I just did. I'm sorry.

5 MR. CUBBERLY: Okay. There are 12 -- there are
6 about, I think, 12 cases, maybe 15, that we think may not
7 -- that the court hasn't dealt with yet.

8 THE COURT: Okay.

9 MR. CUBBERLY: Of these; okay? For various
10 reasons. I think it was, like, two Venn diagrams with
11 some overlap between the two circles.

12 THE COURT: All right.

13 MR. CUBBERLY: What I don't know from Mr. Smith
14 yet is whether Uber will consent to them being back in the
15 JCCP and agree with us or not. I think Uber hasn't taken
16 a position yet.

17 But I do think with respect to those 12, the
18 court may need to take that up at some point and whether
19 they are subject to the court's earlier evidentiary
20 motions.

21 MR. SMITH: I can address them right now,
22 Your Honor. I think there's 13 cases on the list we
23 received from Mr. Cubberly. 11 of them were already the
24 subject of the court's February 2023 order. They're in
25 the list. They're already governed by an order the court

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1 already entered. So no dispute on those 11.

2 There are two that were not in that bucket where
3 Mr. Cubberly has said the facts are a little bit
4 confusing. There's -- the plaintiffs' residency situation
5 is different. Those are the two that we're drilling down
6 on.

7 I've been assuming Mr. Cubberly is not going to
8 somehow seek to take 11 cases that are in an order already
9 out of an order. I haven't heard otherwise, but maybe
10 he's saying that now. If he takes that position, we
11 certainly disagree, and I wouldn't think it would be a
12 matter that takes much time to deal with.

13 But as far as I can tell, with Mr. Cubberly's
14 clients, we're down to the two cases where the factual
15 issue about where they live is coming up.

16 MR. CUBBERLY: I am saying that, Your Honor. So
17 the court knows, we filed these people in the MDL. Uber
18 has said, "Look. These are California residents. They
19 live in California. There is not subject matter
20 jurisdiction."

21 THE COURT: There is not what?

22 MR. CUBBERLY: Subject matter jurisdiction.

23 THE COURT: Okay.

24 MR. CUBBERLY: So what we're saying is, "Well,
25 these are all California residents. They live in

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1 California. Some of these people lived in California and
2 were California residents at the time they were
3 assaulted."

4 So, for example, they were in college in another
5 state but California residents, or they just went to
6 another state for vacation.

7 The second part of the Venn diagram would be
8 these are people who do not have an adequate alternative
9 forum because under Stangvik, the statute of limitations.

10 So the court has addressed neither of those two
11 factual scenarios in the previous forum non conveniens
12 order, so I think the court hasn't considered those 11,
13 and they should come back for the court's consideration on
14 those.

15 THE COURT: All right. Let's do this. I'm
16 obviously not in a position to decide anything today.

17 MR. CUBBERLY: Understood.

18 THE COURT: Let's talk in a minute about when
19 we're next going to meet, and to the extent that there
20 is -- you-all meet and confer and you can't reach a final
21 resolution as to some number of cases -- whether it's two
22 or 20 or something in between -- why don't you talk about
23 how you want me to try and resolve that, and we can talk
24 about that?

25 MR. CUBBERLY: Fair enough, Your Honor.

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1 MR. SMITH: Thank you, Your Honor.

2 THE COURT: So unless somebody else has something
3 else, I think the last thing remaining on my list was to
4 talk about the motion to withdraw as counsel. I want to
5 do that in camera and excuse everybody else, but before we
6 do that, we should talk about when we next meet.

7 And maybe with your leave, we can go off the
8 record to spare the court reporter having to transcribe my
9 calendar over the next couple of months, and I can talk to
10 you about what some of my time constraints are if that's
11 all right with everybody.

12 Hearing no objection.

13 (Recess taken.)

14 THE COURT: After a brief discussion with counsel
15 off the record, the court, with everybody's consent, is
16 setting the next case management conference for
17 December 20th at 1:30 p.m. Pacific time. The hope is that
18 by that time, the parties will have met and conferred
19 regarding some of the scheduling issues that we've
20 discussed today, including a possible amendment to the
21 existing scheduling order, a possible revised -- I won't
22 call it revised, but a possible pretrial schedule that
23 will take into account dispositive motions in limine or
24 other common issues that may arise in the cases selected
25 for trial and the like.

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1 And I've also committed to counsel that to the
2 extent there are at that point remaining -- well, there
3 are ripe discovery disputes that need to be addressed by
4 way of an informal discovery conference, I'll make every
5 effort to accommodate you in that regard.

6 MR. ATKINS: The other thing I'd add is, you
7 know, I now know at this point we're going to be making
8 apex motions.

9 THE COURT: Right.

10 MR. ATKINS: And so, obviously, we defer to the
11 court in terms of the calendar for that. We'll try to get
12 those teed up as quickly as possible, like I said. But
13 that will -- that's something that will have to be
14 decided, I presume, by the end of the year, but that's --

15 THE COURT: Well --

16 MR. ATKINS: -- in the court's hands.

17 THE COURT: This may be overly ambitious, but if
18 you already know what they are, Mr. Abramson has already
19 indicated that there are three deponents in question who
20 may be subject to such motions. If you can get that on
21 file for hearing on December 20th, I'll make every effort
22 to decide it. There's going to be a lot of caffeine
23 imbibed for the next one.

24 MR. ATKINS: That makes a lot of sense.

25 THE COURT: Okay. All right. Anything else that

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1 anybody would like to raise?

2 MR. CUTTER: Thank you, Your Honor.

3 THE COURT: Thank you-all. It's always a
4 pleasure.

5 And, Mr. Levin, please remain.

6 (The proceedings were adjourned at
7 2:34 p.m.)

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COURT REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, ANGELA POURTABIB, hereby certify:

I am a duly qualified Certified Shorthand
Reporter in the State of California, holder of Certificate
Number CSR 13714 issued by the Court Reporters Board of
California, and which is in full force and effect.

I am not financially interested in this action
and am not a relative or employee of any attorney of the
parties, or of any of the parties.

I am the reporter that stenographically reported
the testimony in the foregoing proceeding and the
foregoing transcript is a true record of the testimony
given.

Dated: October 23rd, 2024

Angela Pourtabib
Certified Shorthand Reporter
CSR No. 13714, RPR

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DEFENDANTS' EXHIBIT A

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1 kind of no recipe book, if you will, that tells me in what
2 proportion those ingredients need to be added or what
3 weight they need to be given. So it's really entirely or
4 almost entirely within my discretion.

5 That said, I do have in mind, and I hope the
6 order reflects this, that, you know, both parties'
7 statements were quite thoughtful. Gave me a lot to work
8 with. And I felt it was important, obviously, to give
9 both sides full input into where I come out here, and I
10 also thought it was important, and I tried as best I
11 could, in the time allotted, to explain my reason.

12 So before we get to the associated scheduling
13 issues -- which, as always, may be the most complicated
14 part of any hearing -- I wonder whether either side would
15 like to be heard with respect to the court's bellwether
16 ranking?

17 MR. CUTTER: We accept the court's tentative,
18 Your Honor.

19 THE COURT: Thank you, Mr. Cutter.

20 Mr. Williams?

21 MR. WILLIAMS: John Eddie Williams for the
22 plaintiffs.

23 Judge, do you have a sense of whether you are
24 going to try one case at a time, or is there a chance that
25 we could consolidate some cases for judicial efficiency?

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1 Have you thought that through?

2 THE COURT: I've thought about it. Nobody has

3 raised it. I think the received wisdom is that these
4 cases are -- like personal injury cases, generally are
5 individual and should be tried as such. But I'm certainly

6 open to talking about anything that anybody wants to
7 raise.

8 There -- as I've suggested at the end of the
9 order, there may well be common evidentiary issues. For
10 example, there may be in limine motions that are common to
11 all four cases or however many we end up trying. There
12 may be other legal issues that it might make sense to have
13 some kind of consolidated hearing about.

14 But I had not contemplated a multi-plaintiff
15 trial if that's what you're asking.

16 MR. WILLIAMS: Yes, sir. Okay. It would -- we
17 think that it would, of course, be very efficient -- more
18 efficient to do that. It turns out that the liability
19 should be pretty much the same. The only thing that would
20 change the liability case would be the date of the event
21 because some things that Uber did or didn't do were post
22 that date.

23 THE COURT: Right.

24 MR. WILLIAMS: So, you know, if we were to try
25 different people together, we would like them probably to

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1 have similar time frames. But I think that there is a lot
2 of efficiency to be gained there if the court would
3 entertain that and think about it.

4 THE COURT: Interesting idea.

5 Mr. Atkins?

6 MR. ATKINS: I think I fall on the side of
7 received wisdom in this instance. I don't think liability
8 is common. I think there are a lot of differences.
9 Causation is substantially different from case to case,
10 depending on what the conduct is. What's the alleged act
11 that was the breach of the duty? Is there some kind of
12 safety feature that they say would have prevented the
13 incident? And we're going to say it wouldn't have. It's
14 going to be different in each case.

15 So, you know, liability is certainly not common.
16 It's the same reason personal injury cases aren't suitable
17 to class action treatment. Those issues aren't common.

18 I think Your Honor's idea that there may be
19 issues -- evidentiary issues, let's say. Maybe even
20 challenges to experts that would run across the cases. I
21 think that's an idea that I think we should collectively
22 pursue.

23 But were the court to consider the notion of
24 multi-plaintiff trials, we obviously would strongly object
25 and expect that to be, you know, a matter for briefing and

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1 argument. If Your Honor is even inclined to consider it.

2 THE COURT: Well, I'm here to consider anything
3 anybody wants me to consider. I think it's -- well, if
4 you-all think that it really makes a lot of sense and you
5 want to bring a motion, then, by all means, I'll hear it,
6 and I'll decide it. But I'm sort of telling you where I'm
7 -- at least where I'm starting from absent some additional
8 information.

9 Did you want to address, from Uber's standpoint,
10 the ranking, or do you want to leave it, as Mr. Cutter
11 did?

12 MR. ATKINS: We're prepared to leave it.

13 THE COURT: Okay.

14 MR. ATKINS: I think we have other issues. I
15 think the plaintiffs want to raise some issues, and we'll
16 address those. But the ranking, we're not going to
17 contest.

18 THE COURT: Okay. I mean, there was another
19 issue that I struggled a little bit with, frankly, and
20 that was whether, as Uber suggested, I should select six
21 cases on the theory that, you know, one or more of these
22 cases may settle or otherwise resolve at the last minute.

23 I do know from speaking with some of my
24 colleagues around the state that's a practice that some of
25 them follow. Another practice that some of them follow