

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

No. 14-MD-2543 (JMF)

GENERAL MOTORS LLC IGNITION  
SWITCH LITIGATION

This Document Relates to:

*ALL ECONOMIC LOSS ACTIONS*

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF INTERIM CLASS  
COUNSEL'S RULE 23(h) MOTION FOR APPROVAL OF AWARD OF ATTORNEYS'  
FEEES AND EXPENSES AND SERVICE AWARDS TO LEAD PLAINTIFFS**

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I, Steve W. Berman, declare, under penalty of perjury, as follows:

1. I am an attorney admitted *pro hac vice* in this litigation, am the managing partner of the law firm of Hagens Berman Sobol Shapiro LLP, and have personal knowledge of the matters described in this declaration and am competent to testify thereto.

2. Pursuant to Order No. 8, *In re Gen. Motors LLC Ignition Switch Litig.*, Case No. 14-md-02543-JMF (S.D.N.Y. 2014), in this litigation I have served continuously as Plaintiffs' Co-Lead Counsel with particular responsibility for the Economic Loss part of the MDL Action, along with Elizabeth Cabraser. The Court's Order Granting Preliminary Approval of Class Settlement, Directing Notice Under Rule 23(e), and Granting Related Relief (the Preliminary Approval Order) appointed Ms. Cabraser and me as Interim Class Counsel.

3. I respectfully submit this declaration in support of Interim Class Counsel's Motion for Approval of Award of Attorneys' Fees and Expenses and Service Awards to Lead Plaintiffs (the Motion).

4. As the Court recently recognized, this MDL included untold rounds of motion practice and nearly 8,000 docket entries (although the bellwether cases are included in those docket entries). *See* Dkt. No. 7896. As the very lengthy docket demonstrates, every aspect of this case has been vigorously contested by some of the most sophisticated defense counsel in the country.

5. Interim Class Counsel, together with the Executive Committee, have accomplished a tremendous amount of work in this litigation. My colleague Elizabeth Cabraser in her declaration reports on the process of collecting and organizing the lodestar and expenses generated by this huge body of work. I outline below the litigation, the work done by counsel for the Economic Loss Plaintiffs, and the diligent participation of the Class Representatives.

## I. SUMMARY OF WORK PERFORMED

### A. Work Done In Identifying, Investigating, and Initiating the Claims.

6. As outlined in my and Ms. Cabraser's respective applications to serve as Interim Lead Counsel, *In re Gen. Motors LLC Ignition Switch Litig.*, Case No. 14-md-02543-JMF (S.D.N.Y. 2014) (Dkt. Nos. 170, 155), our firms conducted substantial work to identify and investigate potential claims in the MDL Action. My firm filed seven class actions against New GM,<sup>1</sup> six of which focused on ignition switch defects. Ms. Cabraser's firm filed one of the first consumer class actions in this matter, on behalf of a nationwide class and 36 state subclasses, and subsequent complaints as well as part of an early coordination effort. Dkt. No. 155 at 3-4. As these detailed complaints demonstrate, counsel conducted a thorough investigation before filing. We closely monitored GM recalls and the Congressional investigation, and analyzed the Valukas Report (identifying its shortcomings).

7. Other firms that would later be appointed by the Court to Executive Committee or Liaison roles in the MDL also filed thorough complaints.

### B. Complaints.

8. In October 2014, Interim Class Counsel filed two consolidated complaints—the first with respect to economic loss claims concerning GM-branded vehicles that were acquired July 11, 2009, or later, and the second regarding vehicles manufactured by Old GM and purchased before July 11, 2009. *See* Dkt. Nos. 345, 347. These complaints consolidated the claims brought by Economic Loss Plaintiffs in the MDL.<sup>2</sup>

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<sup>1</sup> *Benton v. GM LLC*, No. 5:14-CV-590 (C.D. Cal.); *Dinco v. GM LLC*, No. 2:14-cv-3638 (C.D. Cal.); *Heuler v. GM LLC*, No. 14-cv-492 (C.D. Cal.); *McConnell v. GM LLC*, No. 8:14-cv-424 (C.D. Cal.); *Ratzlaff v. GM LLC*, No. 2:14-cv-2424 (C.D. Cal.); *Satele v. GM LLC*, No. 14-cv-485 (C.D. Cal.); and *Andrews v. GM LLC*, No. 5:14-cv-1239 (C.D. Cal.).

<sup>2</sup> The claims in the bankruptcy court, and other litigation in the bankruptcy court, are discussed in Section E below.

9. Plaintiffs would amend the complaints several times. All told, there were five consolidated complaints filed in the Economic Loss Class Actions. Each amended complaint built on the prior and was molded based on evidence adduced to date and the Court's successive rulings on motions to dismiss (which are highlighted below). The current, operative complaint, which was filed on September 8, 2017, is the Fifth Amended Consolidated Complaint.

10. The complaints were the result of a remarkable amount of fact investigation and legal research. As an example (and as the Court has noted), the Third Amended Consolidated Complaint ran "over a thousand pages and 4500 paragraphs, and include[d] claims under federal and state law brought by named Plaintiffs in all fifty states and the District of Columbia." Dkt. No. 221 at 3. The Fourth Amended Consolidated Complaint exceeded 1700 pages and 7500 paragraphs. *See* Dkt. No. 4175 at 1.

**C. Motions to Dismiss.**

11. New GM filed two comprehensive motions to dismiss, testing the allegations and claims brought in the Third Amended Consolidated Class Action Complaint and the Fourth Amended Consolidated Class Action Complaint.

12. New GM filed its initial motion to dismiss on February 24, 2016. This was a partial motion to dismiss the Third Amended Consolidated Class Action Complaint and was limited to the claims of Plaintiffs from eight jurisdictions (California, District of Columbia, Florida, Louisiana, Maryland, Missouri, Oklahoma, and Virginia) who purchased or leased New GM cars. The briefing on the motion included a deep dive into the law in the eight relevant states, in addition to lengthy briefing on RICO issues (and, particularly, causation and damages). The Court issued its 103-page ruling on July 15, 2016. In short, the Court granted the motion with respect to Plaintiffs' RICO claim and claims brought by any Economic Loss Plaintiff whose car was not allegedly defective when sold; granted the motion with respect to some state law claims and denied

it as to others; and ruled that the Economic Loss Plaintiffs who survived the motion could not bring claims on behalf of putative class members whose defects were not sufficiently similar to the Plaintiffs' defects. *See* Opinion and Order, Dkt. No. 221.

13. After Economic Loss Plaintiffs filed their Fourth Amended Consolidated Complaint, New GM moved to dismiss the claims of Economic Loss Plaintiffs from eight jurisdictions that were not addressed in the Court's opinion on the motion to dismiss the Third Amended Consolidated Class Action Complaint (Alabama, Illinois, Massachusetts, Michigan, New York, Pennsylvania, Texas, and Wisconsin). The parties' briefing dove deeply into the law in each of these eight jurisdictions and also addressed issues that were not state-specific such as Economic Loss Plaintiffs' brand devaluation theory of damages, the viability of economic loss claims brought by Economic Loss Plaintiffs who bought their cars before New GM came into existence or who disposed of their cars prior to the recall announcements, and damages in the form of "lost time" spent by having vehicles repaired. In a 129-page opinion, the Court denied the motion as to the last issue and granted it as to Economic Loss Plaintiffs' narrowed claims for brand devaluation, as well as to pre-Sale purchases and pre-recall dispositions. Importantly, the Court sustained the majority of Economic Loss Plaintiffs' claims under the laws in the eight relevant states. *See* Opinion and Order [Regarding New GM's Partial Motion to Dismiss the Fourth Amended Consolidated Class Action Complaint], Dkt. No. 4175.

14. Plaintiffs filed a Motion to Amend the Fourth Amended Consolidated Complaint, and New GM moved to dismiss and/or strike the newly proposed Fifth Amended Consolidated Complaint. On November 15, 2017, the Court granted Economic Loss Plaintiffs' motion and denied new GM's cross motion (except to the extent that it concerned claims that the Court previously dismissed). *See* Memorandum Opinion and Order [Regarding Plaintiffs' Motion to

Amend the Fourth Amended Consolidated Complaint and New GM's Partial Cross-Motion to Dismiss and/or Strike Plaintiffs' Fifth Amended Consolidated Complaint], Dkt. No. 4810.

15. In Order No. 131, the Court directed the parties to meet and confer regarding application of the Court's prior motion to dismiss opinions on the issues of unjust enrichment, incidental damages, and manifest defect under the laws of 35 jurisdictions that had not been addressed in the Court's prior opinions. The parties reached agreement on the effect of the orders on some jurisdictions, but disagreements remained as to the law in the vast majority of states. The parties subsequently submitted lengthy briefing on the remaining disputes, to wit, whether manifest defect is required for Economic Loss Plaintiffs to recover for their economic losses under the laws of 27 jurisdictions, whether Economic Loss Plaintiffs could recover damages for lost time under the laws of 47 jurisdictions, and whether the existence of a contract or an adequate legal remedy bars Economic Loss Plaintiffs' unjust enrichment claims under the laws of 10 jurisdictions. The Court addressed the parties' contentions in an opinion spanning 108 pages and noted that resolution of the disputes was "no easy task given the sheer number of issues and jurisdictions in dispute, the fact that the relevant law in many of the jurisdictions is unsettled or in conflict, and because 'subtle differences in state law can dictate different results for plaintiffs in different jurisdictions.'" *See* Opinion and Order [Regarding Application of the Court's Prior Rulings on Manifestation, Incidental Damages (Lost Time), and Unjust Enrichment to All Remaining Jurisdictions in Dispute (MDL Order No. 131 Issues)], Dkt. No. 6028, at 5. In sum, the Court found for all remaining jurisdictions in dispute that manifestation was not required to bring statutory consumer protection, common-law fraud, and implied warranty claims; that for all but six states, Economic Loss Plaintiffs could recover lost-time damages characterized as lost earnings or the equivalent (except for under Colorado, New York, Ohio, Oklahoma, Utah, and Virginia law,

where lost personal time was recoverable); that for 9 of the 10 relevant jurisdictions, Economic Loss Plaintiffs could plead unjust enrichment claims in the alternative only where the validity or enforceability of a contract was in question; and that for seven out of the 10 relevant jurisdictions, Plaintiffs could not maintain an unjust enrichment claims when an adequate remedy at law was available. *Id.* at 108 & Exh. A.

**D. Large-Scale Discovery Efforts on Behalf of the Putative Classes.**

**1. Plaintiffs' written and document discovery.**

16. In 2014, Plaintiffs served their first set of requests for production on New GM, encompassing 951 individual requests seeking information, among others, on all of the many recalls invoked by the initial complaints. These were replaced by a targeted, consolidated set of 112 individual requests for production that sought information relating to Phase One and Phase Two recalls, as well as damages. Ultimately, Economic Loss Plaintiffs served on New GM 12 sets of requests for the production of documents and three sets of interrogatories (excluding discovery requests relating to GUC Trust settlements in the Bankruptcy Court).

17. New GM produced more than 4.7 million documents totaling more than 23.4 million pages, almost all of which were made available in electronic form. Interim Class Counsel organized and trained a team of lawyers that reviewed, searched, and extensively coded and analyzed all of the documents that were not specific to personal injury and bellwether Economic Loss Plaintiffs. This was a monumental undertaking that was necessary to identify the key evidence in the case.

**2. Expert discovery.**

18. Over the course of the litigation, in support of the motion for class certification and in opposition to certain New GM motions for summary judgment, the Economic Loss Plaintiffs undertook massive amounts of work related to experts.



19. At a cost of millions of dollars, the Economic Loss Plaintiffs' eight experts submitted 16 expert reports collectively exceeding 1,000 pages. Economic Loss Plaintiffs' disclosed experts were: Stefan Boedeker, Joshua Gans, Marvin Goldberg, Steve Loudon, Ernie Manuel, Hal Poret, Glen Stevick, and Sanford Weisberg. Economic Loss Plaintiffs' Counsel defended the depositions of each expert; the depositions, in the aggregate, consumed 18 days.

20. The experts' work included an analysis of the alleged defects and their common impact on all Class members; New GM's allegedly misleading advertising; materiality of the defects to the Class; benefit-of-the bargain and lost-time damages; and responses to New GM's experts. The work of the experts provided essential support to Economic Loss Plaintiffs' class certification motion and opposition to summary judgment.

21. The Economic Loss Plaintiffs were also required to review and analyze reports from *18 experts* retained by New GM. Those experts were: James Churchwell, Bradford Cornell, Shari Diamond, Joseph Fedullo, Victor Hakim, Dominique Hanssens, Wayne Hoyer, Robin Jason (later withdrawn as an expert by stipulation), Kevin Keller, Robert Kuhn, John List, Thomas Livernois, Laurentius Marais, Daniel McFadden, Robert Rauschenberger, Peter Rossi, Daniel Toomey, and Robert Willig. Economic Loss Plaintiffs took the depositions of each of these experts.

22. In all of the expert depositions mentioned above, counsel for the Economic Loss Plaintiffs' Counsel took and defended the depositions.

### **3. Depositions of GM personnel.**

23. Plaintiffs gathered key fact evidence via deposition. They took *117* depositions of New GM personnel. Counsel for the Economic Loss Plaintiffs were the lead examiners in 103 of these 117 depositions. The New GM personnel examined were: Ackerson, Daniel; Adler, Alan; Altman, Gary; Anderson, Kathryn F.; Andres, Laura; Antonucci, Antonio; Arndt, Robert; Barra,

Mary; Beauregard, Mark; Benavides, Carmen; Bingol, Selim; Boatman, Valerie; Boler-Davis, Alicia; Buddrius, Erick; Buonomo, Lawrence; Boyer, Jeff; Cain, James; Calabrese, John; Caples, David; Capp, John; Carey, David; Chase, William; Churchwell, James; Clark-Dougherty, Lucy; Connolley, Terrence; Daly, John; Davidson, Dwayne; DeFrain, David; DeGiorgio, Raymond; DeVos, Glen; Dolan, John; Eller, Jeffrey Lee; Everest, Brian; Fedullo, Joseph; Fernandez, Daniel; Fitch, Mary; Foley-Gardner, Maureen; Frederico, James; Gottschalk, Thomas; Grebe, Samuel; Gruskin, Michael; Handy, Ebram; Hakin, Victor; Hart, Jean; Hendler, John; Hendricks, Amber; Johnson, Gerald; Johnson, Mark; Judis, Peter; Kelley, Courtland; Kemp, William; Kent, Gay; Kiihr, Elizabeth; Kirkman, Steven; Lange, Robert; Leone, David; Lin, George; Manzor, Alberto; Martin, Greg; Mattson, Erick; McLean, Nancy; Melocchi, Anthony; Mikkelson, Keith; Milikin, Michael; Modi, Vipul; Mooney, Dennis; Murawa, John; Nowak-Vanderhoef, Deborah; Oakley, Steven; Palmer, Jaclyn; Parks, Douglas; Pilibosian, Elizabeth; Porter, Ronald; Queen, James; Queen, Lori; Quinn, Kevin; Rhadigan, Terrence; Reiss, Jr., Joseph; Robinson, Michael; Rollason, Michael; Romeo, Raymond; Reuss, Mark; Schroeder, Matt; Sevigny, Jennifer; Sewell, James; Skaggs, Christopher; Skaar, Neil; Skelton, William; Sprague, John; Stacey, Lisa; Stouffer, Brian; Sullaj, Blendi; Svoboda, Thomas E.; Tandy, Donald F.; Thompson, Brian E.; Thompson, Brian J.; Trush, David; Tryson, Keith; Turski, Karin; Wachtel, Douglas; Wagoner, George; Weber, Jonathan; Woychowski, Terry; Wrona, Jeff; Ziesmer, Dennis A.; Zinser, Craig; Zito, James; and Zuchniewicz, Glenn.

24. Several of these depositions were taken under Fed. R. Civ. P. 30(b)(6), and five of the New GM employees appeared for deposition multiple times (Messrs. Antonucci, Churchwell, DeVos, Fedullo, Hakim, and Brian E. Thompson; Messrs. Churchwell, Fedullo, and Hakim were also deposed as experts).

**4. Class Representative discovery.**

25. New GM engaged in fulsome discovery directed at the Economic Loss Plaintiffs, serving written discovery and taking depositions.

26. Very detailed Plaintiff Fact Sheets were utilized containing fulsome requests for the production of documents. In addition to the Fact Sheets and associated document productions, 95 Economic Loss Plaintiffs responded to six individual interrogatories and one individual request for production served by New GM on certain Economic Loss Plaintiffs included in the Fourth Amended Consolidated Complaint. Two Economic Loss Plaintiffs responded to nine individual interrogatories and two individual requests for production served by New GM on Economic Loss Plaintiffs included in the Fifth Amended Consolidated Complaint.

27. New GM took, and Economic Loss Plaintiffs' Counsel defended, the depositions of 94 Plaintiffs identified below in Section IV.

**5. Discovery motions.**

28. Interim Class Counsel participated in the research and preparations of briefing on a plethora of disputed discovery issues, which included:

- Whether discovery should proceed on claims involving post-Sale vehicles that were not the subject of New GM's motions to enforce in the Bankruptcy Action (Plaintiffs prevailed; see Order No. 14 [Regarding Discovery and New GM's Proposed Gatekeeping Order] (Dkt. No. 48));
- The contents of the Plaintiff Fact Sheets to be completed by Plaintiffs (*see* Order No. 24 (Dkt. No. 74));
- The scope and contents of a Deposition Protocol (*see* Order No. 32 [Deposition Protocol Order] (Dkt. No. 529));
- Protocols for allotting examination time to various parties or party groups and the order of examination of a witness (*see* Order No. 43 [Regarding Deposition Sequence and Examination Time] (Dkt. No. 744));

- Disputes relating to Phase Two Discovery custodial search terms and Plaintiffs' Consolidated Document Requests (*see* Order No. 44 [Regarding Certain Discovery Disputes] (Dkt. No. 7540));
- Plaintiffs' motion to compel relating to Second Set of Consolidated Requests (*see* Order No. 70 [Regarding Discovery Disputes with Respect to Plaintiffs' Second Set of Consolidated Requests for Production of Documents], Dkt. No. 146);
- New GM's motion for a protective order relating to use of discovery materials (*see* July 24, 2015 Opinion & Order, Dkt. No. 1207);
- New GM's motion for a protective order limiting the scope and duration of the deposition of Anton Valukas (*see* Aug. 11, 2015 Memorandum Opinion and Order, Dkt. No. 1243);
- Competing proposals for Phase Three discovery and motion practice (*see* Order No. 84 [Regarding the Phase Three Plan for Discovery and Motion Practice], Dkt. No. 1596); and
- Competing proposals concerning the discovery of absent class member (*see* Order No. 119 [Regarding Absent Class Member Discovery Related to Fourth Amended Consolidated Complaint], Dkt. No. 3568).

**6. Agreed orders related to discovery.**

29. Time-consuming, detailed negotiations led to agreed orders on a variety of issues in the Economic Loss Class Actions, including agreements reached after briefing had been submitted. These orders included:

- Agreed Order Regarding the Preservation of Ignition Switch Parts Governed by NHTSA Recall Campaign 14v-04700, Dkt. No. 35;
- Agreed Order Regarding the Preservation of Parts Governed by NHTSA Recall Campaigns 14V-118, 14V-153, 14V-224, and 14V266, Dkt. No. 42;
- Order No. 10 [Protecting Confidentiality and Privileged Materials], Dkt. No. 44;
- Order No. 11 [Regarding Production of Documents and Electronic Data], Dkt. No. 45;
- Order No. 15 [Joint Coordination Order] (Dkt. No. 49); Order No. 17 [Vehicle Inspection Protocol], Dkt. No. 52;
- Agreed Preservation Order No. 3, Dkt. No. 344;
- Order No. 20 [Regarding the Phase One Discovery Plan], Dkt. No. 383;
- Agreed Preservation Order No. 4, Dkt. No. 403;

- Order No. 26 [Order Regarding the Production of Personnel Files by General Motors LLC], Dkt. No. 77;
- Order No. 27 [Regarding the Parties' Joint Management of the Official MDL 2543 Website], Dkt. No. 78;
- Order No. 31 [Regarding the Phase Two Discovery Plan], Dkt. No. 526;
- Order No. 36 [Amended Deposition Protocol Order], Dkt. No. 604;
- Agreed Preservation Order No. 5, Dkt. No. 605;
- Order No. 38 [Regarding Preservation and Accessibility of Documents and Electronic Data], Dkt. No. 96;
- Order No. 45 [Mechanism and Timetable for Dismissal of Economic Loss Plaintiffs with Overdue Discovery], Dkt. No. 758;
- Agreed Parts Preservation Order No. 6, Dkt. No. 880;
- Preservation Order No. 7: Agreed upon Order Regarding the Inspection of Certain Ignition Switch Parts Governed by NHTSA Recall Campaign 14v-047000, Dkt. No. 881;
- Order No. 64 [Regarding the Parties' Proposed Order Governing Obligations to Pursue Common Discovery in this MDL], Dkt. No. 1095;
- Order No. 69 [Regarding MDL Discovery Coordination Obligation of All Plaintiffs' Counsel], Dkt. No. 1162;
- Order No. 74 [Regarding Discovery of Expert Witness-Related Materials], Dkt. No. 1279;
- Order No. 138 [Regarding Discovery of Expert Witness Materials Relating to Economic Loss Claims], Dkt. No. 4844; and
- Order No. 163 [Regarding Modifications to Agreed Preservation Order Nos. 2-6], Dkt. No. 6718.

**E. Bankruptcy Proceedings.**

30. As the Court has acknowledged, the economic loss class actions—however complicated in their own right—was made substantially more complicated by the Old GM bankruptcy and New GM's agreement to purchase most of Old GM's assets while assuming only some of Old GM's liabilities. Plaintiffs moved to withdraw the bankruptcy reference in order to consolidate all proceedings in one court, but the Court denied the motion. The result was complex

and long-running litigation in the Bankruptcy Court over whether and to what extent Plaintiffs could, consistent with bankruptcy law, bring claims against New GM. The disputes would generate thousands of pages of briefing, frequent court hearings, appeals to this Court, a Second Circuit decision and subsequent appellate proceedings, and aborted settlement attempts between Economic Loss Plaintiffs and the GUC Trust. The challenges posed by having class claims proceed simultaneously in the District Court and Bankruptcy Court posed special challenges not ordinarily invoked in typical MDL class cases.

31. In response to the many class actions filed against New GM, New GM filed a motion to enforce the Bankruptcy Court's Sale Order's provision that blocked economic loss lawsuits against New GM on claims involving vehicles and parts manufactured by Old GM (the Motion to Enforce). The Economic Loss Plaintiffs in this MDL litigation retained Edward Weisfelner and his firm (Brown Rudnick) to represent their interests in the Bankruptcy Court. The Motion to Enforce resulted in reams of briefing and argument in the Bankruptcy Court. The Bankruptcy Court granted in part New GM's motion and ruled that the Sale Order precluded pre-sale economic loss claims against New GM. *See In re Motors Liquidation Co.*, 529 B.R. 510 (Bankr. S.D.N.Y. 2015).

32. On September 9, 2015, the Second Circuit accepted a direct appeal of the Bankruptcy Court's Judgment on New GM's Motion to Enforce, and the Economic Loss Plaintiffs contributed substantially to the briefing submitted to that court. On July 13, 2016, the Second Circuit issued its opinion affirming the decision not to enforce the Sale Order as to independent claims; reversing the decision to enforce the Sale Order as to the Used Car Purchasers' claims and claims relating to the ignition switch defect; vacating the decision to enforce the Sale order as to claims relating to other defects; and vacating the decision on equitable mootness as advisory. *See*

*Elliott v. Gen. Motors LLC (In re Motors Liquidation Co.)*, 829 F.3d 135 (2d Cir. July 13, 2016). Perhaps most importantly, the court affirmed the Bankruptcy Court's factual finding that Old GM knew or should have known of the ignition switch defect and, therefore, should have provided individualized notice of its bankruptcy to potential claimants affected by the defect.

33. The Bankruptcy Court then required any Plaintiffs wishing to seek relief from the Sale Order because of a due process violation to file late claims motions related to the recalls. Bankr. Dkt. No. 13802 at 5. In response, two Economic Loss Plaintiffs named in the Fifth Amended Consolidated Complaint filed a Late Claims motion seeking leave to assert nationwide class claims against the GUC Trust on behalf of an "Ignition Switch Class" and a "Non-Ignition Switch Class." These two Economic Loss Plaintiffs sought to add an additional 58 economic loss claimants who were also named in the Fifth Amended Consolidated Complaint. Many issues invoked by the Late Claims Motions were briefed but not yet decided by the Bankruptcy Court (*see* Bankr. Dkt. Nos. 13871-73, 13882-84), including whether Economic Loss Plaintiffs would be required to satisfy the standards set forth in *Pioneer Inv. Servis. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993), in order to obtain leave to file late proofs of claim and whether any or all of the Economic Loss Plaintiffs were the beneficiaries of a tolling agreement for purposes of the limitation period.

34. This Court also addressed bankruptcy issues. For instance, after the Bankruptcy Court ruled that certain claims and allegations were barred by the Sale Order, Plaintiffs moved to withdraw the bankruptcy reference so that the District Court could resolve whether certain claims would be subject to the Bankruptcy Court's ruling; the Court denied the motion. *See* Aug. 27, 2015 Opinion and Order, Dkt. No. 9.

35. In the wake of the Second Circuit opinion, the parties in the bankruptcy proceedings appealed certain orders to the District Court, resulting in additional briefing efforts. On May 29, 2018, the Court resolved 11 such appeals. In pertinent part, the Court vacated the Bankruptcy Court's holding that the fraudulent concealment claims were not independent claims; affirmed the Bankruptcy Court's decision that Plaintiffs without the ignition switch defect are not barred from pursuing Independent Claims against New GM; affirmed the ruling that punitive damages against New GM based on Old GM conduct are not available; and vacated the Bankruptcy Court's determination that used car purchasers without the ignition switch defect were bound by the Sale Order to the same extent as their predecessors in interest. *See* Opinion and Order, Dkt. No. 5618.

36. In the Bankruptcy proceeding, Economic Loss Plaintiffs held extensive settlement discussions with the GUC Trust that resulted in three separate attempts to settle the claims in the Bankruptcy Court that would have facilitated resolution of the claims there against New GM. Substantial briefing was generated in the process, and an evidentiary-style mini-trial was held. The Bankruptcy Court declined to approve the first two settlements (*see* Bankr. Dkt. Nos. 14212, 14373), and the GUC Trust terminated the third agreement.

37. Displeased with the Economic Loss Plaintiffs' and GUC Trust settlement efforts in the Bankruptcy Court, New GM filed a Motion to Withdraw the Reference of the Economic Loss Plaintiffs' Rule 23 Motion (No. 19-CV-1852 (JMF)), Dkt. No. 1. Briefing was complete on the Motion (*see, e.g., id.* at Dkt. No. 15 (Plaintiffs' opposition)), but the Court had not ruled on the issue by the time the parties reached the Settlement now under consideration.

**F. Miscellaneous Motions and Briefing.**

38. Economic Loss Plaintiffs briefed many other salient legal issues separate and apart from the motions to dismiss, the class certification motion, and motions for summary judgment.



39. For instance, this litigation also entailed the filing and resolution of miscellaneous motions and separate briefing requested by the Court, including:

- Whether motion practice should be deferred pending resolution of motions to enforce in the Bankruptcy Action (*see* Order No. 28 [Regarding Whether to Defer Briefing on Plaintiffs' Post-Sale Consolidated Complaint Until After the Bankruptcy Court Decides the Pending Motions to Enforce], Dkt No. 474);
- Briefing related to choice of law issues invoked by the Post-Sale complaint (*see* Order No. 40 [Regarding Choice-of-Law for Certain Plaintiffs], Dkt. No. 697);
- Briefing relating to Order No. 42 [Establishing Common Benefit Fee and Expense Fund], Dkt. No. 743;
- Briefing proposing to the Court how it should proceed with Plaintiffs' Pre-Sale Consolidated Complaint in light of the Bankruptcy Court's rulings on the motions to enforce (*see* Order No. 47, Dkt. No. 842);
- Competing proposals regarding the effect on individual complaints of the Consolidated Class Action Complaints and later amended complaints (*see* Order No. 49, Dkt. No. 855; June 10, 2015 Opinion and Order, Dkt. No. 1024);
- Plaintiffs' motion to vacate the dismissal with prejudice of certain Economic Loss Plaintiffs who failed to timely submit fact sheets (*see* Order No. 53 [Regarding Lead Counsel's April 22, 2015 Motion to Vacate Dismissal and New GM's April 29, 2015 Motion to Dismiss with Prejudice], Dkt. No. 935);
- Agreed orders relating to the timing of motion practice on unique economic loss claims and alleged factual predicates that were not included in the initial amended consolidated complaint (*see* Order No. 62 [Timing of Motion Practice on Unique Economic Loss Claims in Reinstated Economic Loss Cases], Dkt. No. 1090; Order No. 63 [Regarding the Identification of Factual Predicates and Legal Claims in Any Individual Economic Loss Complaints that Are Not Included in the Second Amended Consolidated Complaint Pursuant to Order No. 51], Dkt. No. 1091);
- Dispute concerning motion practice relating to the Third Amended Consolidated Complaint (*see* Order No. 93 [Regarding Motion Practice Concerning the Third Amended Consolidated Complaint], Dkt. No. 2156);
- Briefing relating to motion practice and discovery concerning the Fourth Amended Consolidated Complaint (*see* Order No. 114 [Regarding Schedule for Motion Practice and Discovery Related to the Fourth Amended Consolidated Complaint], Dkt. No. 3431);
- Competing proposals regarding the timing and briefing for Plaintiffs' proposed Motion to Amend the Fourth Amended Consolidated Complaint and the states that would be the subject of economic loss bellwether procedure (*see* Order No. 131 [Regarding Amended

Schedule for Motion Practice, Discovery, and Bellwether Procedures Related to and Proposed Amendment of the Fourth Amended Consolidated Complaint], Dkt. No. 4499);

- Briefing on the issue of whether to set a trial for the economic loss bellwether claims—the Court set a January 13, 2020 trial date (*see* Order No. 157 [Regarding the November 2, 2018 Status Conference], Dkt. No. 6722 at 2); and
- Competing submissions as to whether to resolve disputes over application of the Court’s prior motion to dismiss rulings to the remaining claims in the Fifth Amended Consolidated Complaint (*see* Order No. 158 [Regarding Application of the Court’s Conclusions to the Fifth Amended Consolidated Complaint], Dkt. No. 6320).

**G. Motion for Class Certification.**

40. Pursuant to the bellwether class certification process established by the Court, the Economic Loss Plaintiffs moved to certify classes under the laws of California, Missouri, and Texas. The briefing was lengthy (*see* Dkt. Nos. 5845-49, 6181), and Plaintiffs’ motion was supported by a detailed Offer of Proof citing 578 exhibits.

**H. Motions for Summary Judgment and Appeal and *Daubert* Motions.**

41. New GM moved for partial summary judgment on “successor liability” claims brought by Economic Loss Plaintiffs who bought or leased a Delta Ignition Switch Vehicle on or before July 9, 2009, in the 16 jurisdictions that were addressed in the Court’s opinions on the motions to dismiss. These claims flowed from the Second Circuit’s decision that such Plaintiffs were not barred by the Sale Order from bringing claims against New GM. In a 47-page opinion, the Court held that Delaware law applied in seven of the 16 jurisdictions at issue and that, under Delaware law, Economic Loss Plaintiffs’ successor liability claims failed as a matter of law. The Court declined to resolve the merits of New GM’s motion with respect to the other nine jurisdictions and asked for additional briefing. *See* Opinion and Order [Regarding New GM’s Partial Motion for Summary Judgment on Plaintiffs’ Successor Liability Claims in the Fourth Amended Consolidated Complaint] at 2-3, Dkt. No. 4345. On Economic Loss Plaintiffs’ subsequent motion for reconsideration, the Court modified its opinion and sustained the pre-recall

Economic Loss Plaintiffs' claims and deferred for "another day" resolution of that particular issue on a state-by-state and claim-by-claim basis. *See* Memorandum Opinion and Order [Regarding Plaintiffs' Motion for Reconsideration and/or Clarification of the Court's Order Dismissing the Claims of "Pre-Recall Plaintiffs"], Dkt. No. 4416.

42. The parties filed supplemental briefing, and in December 2017 the Court dismissed the successor liability claims under Maryland law but denied the motion as to claims arising under the laws of Alabama, Illinois, Michigan, Missouri, Oklahoma, Pennsylvania, Texas, and Virginia. *See* Opinion and Order [Regarding New GM's Motion for Partial Summary Judgment on Successor Liability], Dkt. No. 4888. New GM moved for partial reconsideration, and the Court, after considering additional briefing, then dismissed the successor liability claims of Economic Loss Plaintiffs from New York, Texas, and Virginia. *See* Memorandum Opinion and Order [Regarding New GM's Motion for Partial Reconsideration of the Court's December 19, 2017 Order and Opinion on Successor Liability], Dkt. No. 5410.

43. Spawning mountains of briefing and factual submissions, New GM filed motions for summary judgment on a variety of issues relating to the bellwether economic loss claims, including benefit-of-the bargain damages, bankruptcy-fraud claims, lost time damages, the claims of Economic Loss Plaintiffs who purchased Old GM or used vehicles, the claims of Economic Loss Plaintiffs who sold their cars before the recalls, the claims of Economic Loss Plaintiffs whose cars were subject to the ignition switch "service part" recall, the effectiveness of New GM's recalls and repairs, and the availability of injunctive relief.

44. The Court issued a ruling only on the benefit-of-the bargain summary judgment motion, leaving resolution of the remaining issues to another day. Opinion and Order [Regarding New GM's Motion for Summary Judgment as to the Bellwether Economic Loss Plaintiffs' Claims

for Benefit-of-the-Bargain Damages], Dkt. No. 7019. In its order, the Court found that Economic Loss Plaintiffs could not prove benefit-of-the bargain damages on the basis of the Boedeker conjoint survey. While Economic Loss Plaintiffs strongly disagreed (and still disagree) with this ruling, it was pivotal. Indeed, the Court characterized it as “chang[ing] the landscape in dramatic ways[.]” *Id.* at 43.

45. Economic Loss Plaintiffs then filed a motion for reconsideration or, in the alternative to certify the question to the Second Circuit for interlocutory appeal. The Court denied the reconsideration motion but certified the issue for interlocutory appeal. *See* Opinion and Order [Regarding Economic Loss Plaintiffs’ Motion for Reconsideration of the Court’s Summary Judgment Ruling or, in the Alternative, for Certification of Interlocutory Appeal], Dkt. No. 7616. Economic Loss Plaintiffs filed for leave to appeal, and the Second Circuit granted the petition for immediate appeal. *See* Dkt. No. 7858.

46. In connection with its summary judgment motions, New GM filed several *Daubert* motions to exclude certain opinions submitted by liability experts Glen Stevick, Steve Loudon, and Marvin Goldberg. *See* Dkt. Nos. 5855, 6065. New GM also moved to strike the opinions of Economic Loss Plaintiffs’ damages experts Stefan Boedeker, Joshua Gans, and Ernie Manuel. *See* Dkt. Nos. 6069, 7100. Plaintiffs opposed all of these motions (*see* Dkt. Nos. 6185, 6187, 7249).

47. Economic Loss Plaintiffs moved to exclude under *Daubert* the opinions of New GM experts Cornell, Hanssens, Keller, List, and Willig. *See* Dkt. Nos. 6108, 6110, 6114, 6116, 6118. The Court did not resolve any of the parties’ *Daubert* motions (other than to find, in its summary judgment opinion, that Mr. Boedeker’s analysis was insufficient to prove difference-in-value damages).

**I. Status Conferences.**

48. In order to actively manage the course of this long and complex litigation, the Court held regular status conferences.

49. The Court held at least 32 status conferences, which occurred on the following dates:

**2014:** August 11, September 4, October 2, November 6, and December 15.

**2015:** January 20, March 13, April 24, June 16, August 28, October 9, November 20, and December 17.

**2016:** February 23, April 20, June 17, July 28, September 7, October 13, and November 10.

**2017:** February 10, July 6, August 11, and October 4.

**2018:** January 8, March 22, May 31, August 21, and November 2.

**2019:** March 1, August 15, and December 18, 2019.

50. In advance of each status conference, counsel were required to meet and confer and submit joint status letters. Often, these letters presented competing issues for the Court's resolution. Conferring with New GM counsel and preparing the joint status letters often involved significant effort.

51. Members of the Interim Class Counsel team attended each of these conferences.

**J. Settlement Negotiations.**

52. Interim Class Counsel, New GM, the GUC Trust, and counsel to the Participating Unitholders negotiated the Settlement in good faith and at arm's length using the services of the independent Court-appointed economic loss mediator, retired Judge Layn R. Phillips.

53. Early efforts at negotiations in 2016 and 2017 proved unfruitful, and negotiations were moribund until the Court appointed Judge Phillips as mediator. Beginning in September

2017, Judge Phillips oversaw mediation efforts. The parties had three in-person mediation sessions in 2018, which ended without an agreement.

54. Discussions did not gain momentum until after the Court granted summary judgment against Plaintiffs' benefit-of-the-bargain claims in August 2019. Thereafter, the parties held several in-person mediations in September 2019, December 2019, and January 2020, in addition to numerous phone calls, that ultimately resulted in the Settlement.

55. Interim Class Counsel diligently prepared for each mediation session and negotiated in good faith. As set forth in Layn Phillips' declaration, fees were not negotiated until after agreement was reached on a settlement in principle.

## II. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE

56. The Settlement resolves a number of complex issues in the MDL, some of which have already been decided in New GM's favor. The challenges confronting Economic Loss Plaintiffs at this juncture are many and include: (i) the Court granted summary judgment against Plaintiffs' benefit-of-the-bargain damages in the three bellwether states, thereby posing a fundamental barrier to *any* recovery by Economic Loss Plaintiffs nationwide unless overturned by the Second Circuit;<sup>3</sup> (ii) the Court held that claims for lost time damages generally require proof of lost income; and (iii) the Court held that many states would not allow the Delta Ignition Switch Plaintiffs' successor liability claims.

57. The Settlement also resolves a host of complex issues in the Bankruptcy Court arising from the Late Claim Motions, including, but not limited to, whether Economic Loss Plaintiffs should be granted authority to file late proofs of claim (and whether such authority can be granted solely on due process grounds), whether the Economic Loss Plaintiffs' claims are

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<sup>3</sup> The Court described its summary judgment ruling as "chang[ing] the landscape in dramatic ways." *See In re Gen. Motors LLC Ignition Switch Litig.*, 407 F. Supp. 3d 212, 241 (S.D.N.Y. 2019).

equitably moot, whether additional grounds exist to object to the Economic Loss Plaintiffs' claims, and the amount of said claims in the event that they are allowed.

58. Litigation of these issues has been ongoing for several years, and has consumed significant time, money, and resources from the parties and the Court. Continued litigation of the matters resolved by the Settlement Agreement would be complex and costly, and subjecting the Parties to uncertain results. The Settlement, on the other hand, will substantially reduce costs and the expenditure of resources and eliminate the risk of uncertain litigation outcomes.

59. The Settlement Agreement resolves multiple disputes, claims and issues to which the Parties are involved in varying degrees, and in related but not necessarily identical ways, such that each Party's overall obligations to one or more other Parties constitutes good and sufficient consideration for the overall benefits each Party is to receive from one or more of the other Parties. Indeed, as the Court has noted, in "five-plus years of litigation, hundreds of depositions, millions of documents exchanged in discovery, and untold trees felled and ink spilled by the parties and the Court, the parties should have enough data to agree on a settlement value for this litigation; the risks of delay and reversal are merely additional data to factor into the calculus." *In re Gen. Motors LLC Ignition Switch Litig.*, 2019 WL 6827277, at \*14 (S.D.N.Y. Dec. 12, 2019).

60. The settlements, compromises, releases and transfers contemplated in the Settlement Agreement are fair, reasonable and given in exchange for valuable and reasonably equivalent consideration.

61. I also believe that, in light of my intimate familiarity with the liability and damage evidence in the case, Judge Phillips' Allocation Decision is within the range of reasonableness.

62. In light of the inherent risks and costs associated with litigation, the Settlement Agreement is fair, reasonable, and adequate, treats Class members equitably, and clearly falls above the lowest rung in the range of reasonableness.

### **III. THE REQUESTED FEE AND EXPENSE AWARD IS REASONABLE**

63. Interim Class Counsel and associated Plaintiffs' counsel have prosecuted this litigation solely on a contingent-fee basis for over six years and have been at risk of not receiving compensation for prosecuting claims against New GM. All of these firms devoted substantial time and resources to this matter and have forgone other legal work for which they otherwise could have been compensated.

64. As discussed in our brief and in the Declaration of Elizabeth Cabraser in Support of Interim Class Counsel's Rule 23(h) Motion for Approval of Award of Attorneys' Fees and Expenses, an award of fees here—which will be paid separately by New GM and, thereby, will not dilute the recovery to the Class—will fall far short of compensating Economic Loss Plaintiffs' counsel for the extraordinary amount of work done on behalf of the Economic Loss Plaintiffs. In light of the magnitude of that work, the risks taken by counsel, the stiff defense mounted by New GM and its diligent counsel, and the results achieved, I believe that the requested fees and expense reimbursement is more than reasonable.

65. We would also like to note that the case is still ongoing and we are still working on extensive class member communication, preparing final approval papers, will be heavily involved in overseeing (with New GM) the Settlement administration process, and will need to defend the Settlement from any possible objector appeals.

### **IV. THE LEAD PLAINTIFFS DILIGENTLY SERVED THE CLASS**

66. The Preliminary Approval Order, at paragraph 9, appointed the following Plaintiffs as interim Class Representatives for the Class for settlement purposes only: Valeria Glenn, Gerald



Smith, Marion Smoke, Camille Burns, Joe Glover, Nettleton Auto Sales, Inc., Grace Belford, Barbara Hill, Ray Wieters, Patricia Barker, Chimen Basseri, Michael Benton, Sylvia Benton, Kimberly Brown, Kellie Cereceres, Crystal Hardin, Yvonne James-Bivins, Javier Malaga, Winifred Mattos, Santiago Orosco, David Padilla, Esperanza Ramirez, William Rukeyeser, Michelle Thomas, Trina Bruche, John Marvin Brutche, Jr., Margaret Lesnansky, Yvonne Elaine Rodriguez, Annet Tivin, Nathan Terry, Wandell Littles Beazer, Stacey Bowens, Robert Deleo, Celeste Deleo, Michael Pesce, Lisa Teicher, Tracey Perillo, LaTonia Tucker, Joni Ferden-Precht, Debra Forbes, Kim Genovese, Rhonda Haskins, Maria E. Santiago, Harvey Sobelman, Verlena Walker, Neysa Williams, Rochelle Bankhead, Carla Cartwright, Dale Dowdy, Jennifer Dunn, Towana Ferguson, Jenny Mathis, Billy Mosley, Clifford Turner, Barry Wilborn, Dennis Walther, Patricia Backus, Susan Benner, Debra Cole, Charlene Kapraun, Keith Nathan, Patrick Painter, Cliff Redmon, Lane Blackwell, Jr., Martha Cesco, Heather Holleman, Valerie Mortz Rogers, Cheryl Reed, Karen Rodman, Heidi Wood, Alphonso Wright, James Dooley, Lyle Wirtles, Carl Bosch, Evelyn Bosch, Phyllis Hartzell, Philip Zivnuska, Elizabeth Stewart, Dawn Talbot, Frances Ann Fagans, Lori Green, Raymond Naquin, Lisa West, Debra Quinn, Harry Albert, Marc Koppleman, Madelaine Koppelman, Melody Lombardo, Jerrod Pinkett, Robert Wyman, Debra Companion, Colin Elliott, Richard Leger, Susan Viens, Brittany Vining, Sheree Anderson, Marquette Chestnut, Diana Cnossen, Rafael Lanis, Sophia Marks, David Price, Brian Semrau, Jacqueline Smith, Bryan Wallace, Franklin Wloch, Anna Allshouse, David Cleland, Janelle Davis, William Hill, Christine Leonzal, Cynthia Shatek, Jennifer Sullivan, Larry Haynes, Frances Howard, Elizabeth D. Johnson, Ashley Murray, Youloundra Smith, Linda Wright, Brad Akers, Deloris Hamilton, Cynthia Hawkins, Kenneth Robinson, Ronald Robinson, Mario Stefano, Christopher Tinen, Patrice Witherspoon, Laurie Holzwarth, Susan Rangel, Bonnie Hensley,

Sandra Horton, Wayne Wittenberg, Crystal Mellen, Michael Amezquita, Heather Francis, Anthony Juraitis, Gene Reagan, Steven Sileo, Javier Delacruz, Lorraine De Vargas, Arteca Heckard, Bernadette Romero, Irene Torres, Renate Glyttov, Sandra Levine, Nicole Mason, Donna Quagliana, Michael Rooney, William Ross, Richelle Draper, Gwen Moore, Leland Tilson, Jolene Mulske, Lisa Axelrod, Gail Bainbridge, Tracie Edwards, Georgianna Parisi, Peggy Robinson, Bradley Siefke, Steven M. Steidle, Bonnie Taylor, William Troiano, Reggie Welch, Carleta Burton, Deneise Burton, Debra Cummings, Jerrile Gordon, Paulette Hand, Jennifer Reeder, Bruce Wright, Denise Wright, William Bernick, Shelton Glass, Janice Bagley, Raymond Berg, Shawn Doucette, Shirley Gilbert, George Mathis, Paul Pollastro, David Schumacher, Greg Theobald, Mary Dias, Garrett Mancieri, Annette Hopkins, Frances James, Cassandra Legrand, Kimberly Mayfield, Edith Williams, Norma Lee Holmes, Catherine Senkle, Helen A. Brown, Alexis Byrd, Felisha Johnson, Sharon Newsome, Louise Tindell, Silas Walton, Gareebah Al-ghamdi, Dawn Bacon, Dawn Fuller, Michael Graciano, Shenyesa Henry, Keisha Hunter, Lisa McClellan, Lisa Simmons, Malinda Stafford, Alexis Crockett, Blair Tomlinson, Paul Jenks, Reynaldo Spellman, Michael Garcia, Tony Hiller, Stephanie Renee Carden, Melinda Grale, Nancy Bellow, Thomas Linder, Les Rouse, and Christy Smith.

67. Economic Loss Plaintiffs have devoted considerable time and effort to this litigation. All of the Economic Loss Plaintiffs reviewed and approved multiple complaints and stayed in regular communication with counsel. Approximately half of the Economic Loss Plaintiffs completed fact sheets and produced documents.

68. More specifically, Economic Loss Plaintiffs with New GM vehicles from the Post-Sale Complaint (in sum, Plaintiffs from Arkansas, California, District of Columbia, Florida, Georgia, Iowa, Illinois, Kentucky, Maryland, Missouri, New Jersey, New York, Oklahoma, and

Virginia, and a later Washington plaintiff), reviewed and approved successive amended complaints, completed fact sheets, produced documents and regularly communicated with us.

69. Economic Loss Plaintiffs subject to New GM's motion to dismiss the Third Amended Consolidated Complaint (Plaintiffs in California, the District of Columbia, Florida, Louisiana, Maryland, Missouri, Oklahoma, and Virginia) and Economic Loss Plaintiffs subject to New GM's motion to dismiss the Fourth Amended Consolidated Complaint (Plaintiffs in Alabama, Illinois, Massachusetts, Michigan, New York, Pennsylvania, Texas, and Wisconsin) conducted additional work. In addition to reviewing and approving successive amended complaints, completing fact sheets and regularly communicating with counsel, nearly all of these Economic Loss Plaintiffs also responded to written discovery (both interrogatories and requests for production) and produced documents, and most of these Economic Loss Plaintiffs had their vehicles inspected and sat for depositions. One hundred and five (105) Economic Loss Plaintiffs fall into this category, and the following 94 Economic Loss Plaintiffs had their depositions taken: Valeria Glenn, Gerald Smith, Marion Smoke, Patricia Barker, Chimen Basseri, Michael Benton, Sylvia Benton, Kimberly Brown, Kellie Cereceres, Crystal Hardin, Yvonne James-Bivins, Javier Malaga, Winifred Mattos, Santiago Orosco, David Padilla, Esperanza Ramirez, William Rukeyser, Michelle Thomas, Joni Ferden-Precht, Debra Forbes, Kim Genovese, Rhonda Haskins, Maria E. Santiago, Harvey Sobelman, Verlana Walker, Neysa Williams, , Susan Benner, Debra Cole, Charlene Kapraun, Keith Nathan, Patrick Painter, Cliff Redmon, Frances Ann Fagans, Lori Green, Raymond Naquin, Lisa West, Harry Albert, Marc Koppleman, Madelaine Koppelman, Melody Lombardo, Robert Wyman, Debra Companion, Richard Leger, Susan Viens, Sheree Anderson, Marquette Chestnut, Diana Cnossen, Rafael Lanis, Sophia Marks, David Price, Brian Semrau, Jacqueline Smith, Bryan Wallace, Franklin Wloch, Brad Akers, Deloris Hamilton,

Cynthia Hawkins, Kenneth Robinson, Ronald Robinson, Mario Stefano, Christopher Tinen, Patrice Witherspoon, Renate Glyttov, Sandra Levine, Nicole Mason, Donna Quagliana, Michael Rooney, Carleta Burton, Deneise Burton, Debra Cummings, Jerrile Gordon, Paulette Hand, Jennifer Reeder, Bruce Wright, Denise Wright, Janice Bagley, Raymond Berg, Shawn Doucette, Shirley Gilbert, George Mathis, Paul Pollastro, David Schumacher, Greg Theobald, Gareebah Alghamdi, Dawn Bacon, Dawn Fuller, Michael Graciano, Shenyesa Henry, Keisha Hunter, Lisa McClellan, Lisa Simmons, Malinda Stafford, Les Rouse, and Christy Smith.

70. Because this litigation has been particularly protracted—enduring for over six years—all Economic Loss Plaintiffs have been required to attend to their obligations as class representatives and expend efforts for an unusually long period.

71. In light of the foregoing, we believe that it is appropriate for the Court to approve service awards to the Class Representatives given their devotion to the class, without which this Settlement would not have been possible.

72. If the Court agrees, 122 Class Representatives will receive \$1,000 Service Awards, and 94 Class Representatives will receive \$2,000 Service Awards, for a grant total of \$310,000 in Service Awards.

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

Executed this 28th day of September, 2020 at Seattle, Washington.

/s/ Steve W. Berman

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on September 28, 2020, which will send notification of such filing to the e-mail addresses registered.

*/s/ Steve W. Berman*  
\_\_\_\_\_  
Steve W. Berman