

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

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IN RE: GENERAL MOTORS LLC IGNITION	:	
SWITCH LITIGATION	:	
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This Document Relates to:	:	No. 14-MD-2543 (JMF)
<i>ALL ECONOMIC LOSS ACTIONS</i>	:	
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**THE GUC TRUST’S BRIEF IN SUPPORT OF  
FINAL APPROVAL OF CLASS  
SETTLEMENT AND CERTIFICATION OF  
CLASS FOR PURPOSES OF SETTLEMENT**

The Motors Liquidation Company GUC Trust (the “GUC Trust”), by and through its undersigned counsel, respectfully submits this *Brief in Support of Final Approval of Class Settlement and Certification of Class for Purposes of Settlement* (the “Brief”) to address responses to the Amended Settlement Agreement [ECF No. 7888-1]<sup>1</sup> and to express the GUC Trust’s continued support for the Settlement. In support of this Brief, the GUC Trust respectfully states as follows:

**Background**

1. The Economic Loss Plaintiffs, New GM, the Motors Liquidation Company Avoidance Action Trust (the “AAT”) and the GUC Trust have sought the Court’s approval of the Amended Settlement Agreement, which will, at long last, resolve the ongoing litigation between the Parties in both this Court and the Bankruptcy Court. To facilitate the Settlement, the Parties have withdrawn the reference with regard to the Actions filed or asserted in the Bankruptcy

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<sup>1</sup> Capitalized terms have the same meanings as in the Settlement Agreement.

Court and requested certification of a settlement class under Rule 23 of the Federal Rules of Civil Procedure.

2. On April 27, 2020, following a joint hearing before this Court and the Bankruptcy Court, the Court entered an Order [ECF No. 7877], which, among other things, preliminarily approved the Settlement Agreement and directed the Parties to provide notice to prospective Class Members.

3. On May 1, 2020, the Economic Loss Plaintiffs, New GM, the GUC Trust and the AAT executed and filed with the Court an Amended Settlement Agreement, and on May 4, 2020, the Court entered an Order supplementing the Preliminary Approval Order by approving the Amended Settlement Agreement, including the amended notice to prospective Class Members. [ECF No. 7892].

4. As set forth in the declaration of the Class Action Settlement Administrator, Jennifer M. Keough of JND Legal Administration (“JND”), the GUC Trust has paid \$2,000,000.00 into the Common Fund as required under the Amended Settlement Agreement to partially fund Settlement Implementation Expenses. Furthermore, JND has indicated that through their noticing efforts, 93.5% of the Class Members received direct, actual notice of the Settlement.

5. The GUC Trust joins with, and adopts the legal arguments made by New GM in its *Defendant General Motors LLC’s Memorandum in Support of Joint Motion for Final Approval of Class Settlement and Certification of Class for Purposes of Settlement* [ECF No. 8245] (the “New GM Brief”).

6. In addition, the GUC Trust supplements the New GM Brief with facts and circumstances unique to the GUC Trust and the Bankruptcy, as the Settlement resolves two

distinct pieces of litigation that are both pending before the Court as a result of the Order Withdrawing the Reference [ECF No. 15, Case No. 1:20-cv-02757-JMF].

7. The GUC Trust has been litigating with certain Class Members in the Bankruptcy Court regarding their desire to file late proofs of claim against the GUC Trust alleging class wide damages in excess of a billion dollars. In the absence of the Settlement, the litigation between the GUC Trust and these Class Members would continue for years, as the issue of whether the Class Members were even entitled to pursue claims in the Bankruptcy Case would first have to be determined, well before any determinations regarding damages could ever be addressed. Thus, the proceedings brought by Class Members in the Bankruptcy Court are actually a step behind the proceedings in the MDL Court between New GM and Class Members.

8. Additionally, none of the Class Members has objected to the Settlement on the grounds that it also resolves litigation between the GUC Trust and certain Class Members pending in the Bankruptcy Court, nor have any Class Members that have sought to opt out of the Settlement indicated a desire to continue to pursue claims in the Bankruptcy Case against the GUC Trust.

9. The GUC Trust has reviewed each of the five filed responses to the Settlement Agreement (the "Responses"). None of the Responses provides any reason for why the Settlement Agreement should not be approved. To wit, none of the Responses, in any way, challenges the appropriateness of the Settlement's terms, the sufficiency of the notice provided, or any other substantive or procedural aspect of the Settlement Agreement. Nor do the Responses provide any factual or legal grounds for denying approval of the Settlement Agreement. Accordingly, the GUC Trust does not believe the Responses raise any issue that would prevent the Court from approving the Settlement.

10. By this Brief, the GUC Trust reaffirms its belief that the proposed Settlement is fair, reasonable, and adequate; that it is in the best interests of all the Parties; and that the Settlement Agreement meets the standards for court approval.<sup>2</sup> Therefore, to the extent that any of the Responses could be characterized as “objections” to the Settlement, the GUC Trust respectfully requests that they be overruled.

Dated: New York, New York  
November 9, 2020

Respectfully submitted,

/s/ Kristin K. Going

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<sup>2</sup> The GUC Trust has consulted with counsel for the AAT about this submission. The AAT has asked us to report its support for approval of the Settlement Agreement as a fair, reasonable and adequate resolution of potential litigation before the Bankruptcy Court concerning these issues.

**CERTIFICATE OF SERVICE**

I hereby certify that on November 10, 2020, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system (the "ECF System"), which will send notification of such filing to all counsel of record who are registered users of the ECF System.

/s/ Kristin Going  
Kristin Going