

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

EDWARD OBERSKI, AMANDA OBERSKI, and STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known  
as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**MOTION RECORD**  
**(Motion for Settlement Approval and Approval of Plaintiffs' Counsel Fees)**

July 25, 2024

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# TAB 1

Court File No.: CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

EDWARD OBERSKI, AMANDA OBERSKI, and STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known  
as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**NOTICE OF MOTION**  
**(Motion for Settlement Approval and Approval of Plaintiffs' Counsel Fees, Returnable**  
**July 30, 2024)**

**THE PLAINTIFF, STACEY GREEN** will make a motion to the Honourable Mr. Justice Glustein on July 30, 2024, at 10:00 a.m., to be held virtually at the courthouse, 361 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**DEFINITIONS:**

Except to the extent they are modified herein, all defined terms used in this document shall have the meanings ascribed to them in the Amended Settlement Agreement (the "Settlement Agreement") a copy of which is attached as Schedule "A" to the draft Approval Order.

**THE MOTION IS FOR:**

1. An Approval Order, substantially in the form attached hereto as Schedule “A”:
  - a) Declaring that the Settlement Agreement is fair, reasonable and in the best interests of the National Settlement Class members and approving it pursuant to s.29(2) of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 as it read immediately before October 1, 2020 (“CPA”) and ordering that it be implemented in accordance with its terms;
  - b) Approving the form and content of the Approval Notice, substantially as set forth in Schedule “B” to the Approval Order, and the Notice Plan, substantially as set forth in Schedule “C” to the Approval Order, and declaring that the form and manner of notice set out in the Approval Notice and the Notice Plan satisfy the requirements of notice under Sections 19 and 29(4) of the CPA;
  - c) Directing that the Approval Notice be published and disseminated in accordance with the Notice Plan as soon as reasonably possible after the Effective Date of the Settlement Agreement is reached;
  - d) Affirming JND Legal Administration (“JND”) as the Settlement Administrator for the Settlement;
  - e) Approving the Claim Form in the form attached as Schedule “E” to the Settlement Agreement, and directing that the Claims Program be administered in accordance with the Settlement Agreement;
  - f) Directing that the Defendants shall, within thirty (30) days of the Effective Date, pay the Settlement Fund Amount of \$12,000,000 (less any amounts the Defendants have

paid for Preliminary Administrative Expenses) into the escrow account to be opened and maintained by JND, in accordance with s.6 of the Settlement Agreement;

g) Approving the payment to the Class Proceedings Fund of a 10% levy from the Net Settlement Amount that is attributable to National Settlement Class members, in accordance with O. Reg. 771/92, s.10(3)(b);

h) Directing that any Party may bring a motion to this Court at any time for directions with respect to the implementation or interpretation of the Settlement Agreement, on notice to all other Parties;

i) Directing that the Approval Order be contingent on a parallel Approval Order being made by the Superior Court of Québec in files No. 500-06-000729-158 and 500-06-000687-141, and that the terms of the Approval Order not be effective unless and until such order is made by the Superior Court of Québec Court;

j) Declaring that in the event that the Settlement Agreement is terminated in accordance with its terms, the Approval Order shall be null and void and of no force or effect;

k) Directing that upon the Effective Date all National Settlement Class Releasing Parties shall be bound by the Settlement Class Members' Release;

l) Adjudging that the Ontario Actions (as consolidated) be dismissed against the Defendants with prejudice and without costs as of the Effective Date, and that such dismissal shall be a full defence to any subsequent action in respect of the subject matter hereof; and

- m) Approving the payment of plaintiffs' counsel fees, expenses, costs, disbursements, and applicable taxes in the total amount of CAD\$4,397,500;
  - n) Directing that the Defendants shall, within thirty (30) days of the Effective Date pay CAD\$4,397,500 to Co-Lead Counsel, being the Plaintiffs' Counsel Fee Amount;
  - o) Directing that Co-Lead Counsel shall pay to the Class Proceedings Fund \$165,125.54 from the Plaintiffs' Counsel Fee Amount inclusive of all applicable taxes, being the amount of financial support received under s.59.3 of the *Law Society Act*, R.S.O. 1990, c. L.8, in respect of disbursements incurred and not yet repaid, in accordance with O. Reg. 771/92, s.10(3)(a);
  - p) Directing that Co-Lead Counsel shall allocate the Plaintiffs' Counsel Fee Amount among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Co-Lead Counsel deems fit; and
2. Such further or other ancillary relief as counsel may request and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

1. This action is the consolidation of four actions commenced in Ontario around Spring of 2014 (the "Ontario Action"), and concerns certain automobiles manufactured by the Defendants (the Subject Vehicles);
2. Between February 10, 2014, and July 3, 2014, the Defendants began recalling Subject Vehicles pursuant to Transport Canada Recalls (the Recalls);



3. The Plaintiff alleges that the Subject Vehicles contained defective components posing a danger to drivers and passengers (the “Defects”), that the Defendants negligently designed and manufactured these components, and that the Defendants knew of but failed to warn of the Defects.

The Defendants deny these allegations;

4. The Plaintiff proposed to bring this action on behalf of a national class consisting of those who had suffered injuries while driving or being transported in the Subject Vehicles and their family members with standing to assert derivative claims, as well as those who had suffered economic loss after purchasing or leasing a Subject Vehicle;

5. Other actions were also commenced concerning the Subject Vehicles, Recalls, and Defects: two in Quebec (the Quebec Actions), and twelve parallel in various other provinces (the Related Actions). The Quebec Actions were stayed pending the outcome of the Ontario Action. The settlement of the Ontario Action applies to the Related Actions and the Quebec Actions;

6. The Plaintiff took steps to advance the litigation in Ontario, throughout which time the Parties also canvassed possibilities for settling this action through formal and informal negotiation. In November 2020, the Parties engaged The Honourable Justice Thomas Cromwell to assist with mediation in respect of the economic loss claims. The Parties settled claims for personal injury separately from those for economic loss;

7. During mediation in March 2022, the Parties agreed to the final proposed settlement and executed a term sheet regarding claims for economic loss;

8. The Plaintiff and the Defendants have entered into a Settlement Agreement to resolve the economic loss claims in the Ontario Action, Quebec Actions and Related Actions, pursuant to the terms and conditions contained in the Settlement Agreement;

9. The Settlement Agreement provides for the payment of a \$12,000,000 Settlement Fund Amount for the payment of administrative expenses and Eligible Claims, as well as a Plaintiffs' Counsel Fee Amount of \$4,397,500 for fees, disbursements, and associated taxes incurred by any and all plaintiffs' counsel. The Plaintiffs' Counsel Fee Amount is a separate and distinct amount from the Settlement Fund Amount, and no counsel fees are payable from the Settlement Fund Amount;

10. The Ontario Action was certified for settlement purposes on January 16, 2024, and the Quebec Actions were authorized for settlement purposes on May 6, 2024;

11. The Court-approved Certification Notice Program gave notice of the dates and locations of the settlement approval hearings before this Court and the Superior Court of Quebec;

12. The Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class Members and resulted from extensive arms' length negotiations between the Parties;

13. The Plaintiffs' Counsel Fee Amount is fair, reasonable, and within the reasonable expectations of the Plaintiff given the terms of the Plaintiff's contingency fee agreement with Co-Lead Counsel. It is also fair and reasonable considering, *inter alia*, the results achieved for Settlement Class Members, the actual time and disbursements incurred on the Action, the degree of risk assumed by plaintiffs' counsel, that the fees sought are separate and distinct from the

Settlement Fund Amount, and that no counsel fees shall be drawn from the Settlement Fund Amount;

14. The disbursements incurred are similarly fair and reasonable;
15. The Approval Notice and the Notice Program agreed upon by the Parties satisfy the requirements of sections 19 and 29(4) of the *CPA*;
16. The *CPA*, including sections 1, 12, 19, 20, 21, 22, 29, 32, 33, and 35;
17. The *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, including rules 1, 2, 3.02, 7.08, 12 and 37; and
18. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The pleadings and proceedings herein;
2. The affidavit of Vincent Genova, sworn July 24, 2024;
3. The affidavit of Jennifer M. Keough, sworn July 24, 2024;
4. The affidavit of Stacey Green, sworn July 24, 2024;
5. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: July 30, 2024

OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION  
(Motion for Settlement Approval and Approval of Plaintiffs' Counsel Fees,  
Returnable July 30, 2024)**

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## Schedule "A"

Court File No. CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	TUESDAY, THE 30th
	)	
MR. JUSTICE GLUSTEIN	)	DAY OF JULY, 2024
	)	

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION** by the Representative Plaintiff for approval of the settlement of this action pursuant to s.29 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, in accordance with the terms of the Amended Settlement Agreement was heard virtually this day in Toronto, Ontario.

**UPON READING** the material filed, including the Amended Settlement Agreement entered into between the Parties attached to this Order as Schedule "A" (the "Settlement Agreement"), on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants and any objector who has submitted a written objection to the Settlement Administrator pursuant

to the terms of the Settlement Agreement, and on being advised that the Plaintiffs and Defendants consent to this Order,

**THIS COURT ORDERS AND DECLARES** that:

**Settlement Approval**

1. References to the *Class Proceedings Act, 1992* in this Order refer to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 as it read immediately before October 1, 2020 (the “CPA”).
2. The definitions set out in the Settlement Agreement, attached as Schedule “A”, apply and are incorporated into this Order.
3. The Settlement Agreement (including all preambles, recitals, and schedules) is incorporated by reference into and forms part of this Order and is binding upon the Parties and all National Settlement Class members who have not validly opted out in accordance with the terms of the Settlement Agreement.
4. In the event of any conflict between the Settlement Agreement and this Order, this Order shall prevail.
5. The Settlement of this action, as set out in the Settlement Agreement, is fair and reasonable and in the best interests of the National Settlement Class and is hereby approved pursuant to s.29 of the CPA, and shall be implemented in accordance with its terms.
6. This Order is contingent upon a parallel Approval Order being made by the Superior Court of Québec in file numbers 500-06-000729-158 and 500-06-000687-141, and the terms of this Order shall not be effective unless and until such order is made by the Superior Court of Québec.
7. In the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be null and void and of no force or effect.

**Notice and Notice Plan**

8. The Approval Notice substantially in the form attached hereto as Schedule “B” is hereby approved, and the Notice Plan, substantially in the form attached hereto as Schedule “C”, satisfies the requirements of s.19 of the *CPA*, constitutes a fair and reasonable notice of the Settlement Approval, and shall be implemented as soon as reasonably possible after the Effective Date.

9. The Approval Notice shall be disseminated in English and French.

#### **Settlement Administrator**

10. JND Legal Administration (“JND”) is hereby affirmed as the Settlement Administrator and shall administer the Settlement in accordance with the Settlement Agreement, which is approved by this Court.

11. The Claim Form attached as Schedule “E” to the Settlement Agreement is hereby approved.

#### **Binding Effect of Settlement Agreement**

12. Any National Settlement Class member who has validly opted out of the Settlement by the Opt-Out Deadline in accordance with the terms of the Settlement Agreement and the Order of this Court dated May 7, 2024 is not bound by the Settlement Agreement, is not entitled to any Settlement Benefits, and shall no longer participate or have the opportunity in the future to participate in the Ontario Action or the settlement thereof.

13. Any National Settlement Class member who has not validly opted out of the Settlement by the Opt-Out Deadline in accordance with the terms of the Settlement Agreement and the Amended Order of this Court dated May 7, 2024 is bound by the terms of the Settlement Agreement and may not opt out of the Ontario Action in the future.

**Payments from Settlement Fund Amount**

14. The Defendants shall, before the Effective Date, pay the Preliminary Administrative Expenses into an escrow account to be opened by JND.

15. Within thirty (30) days of the Effective Date, the Defendants shall pay into the escrow account to be opened by JND the Settlement Fund Amount, in accordance with the Settlement Agreement, less any amount paid for Preliminary Administrative Expenses.

16. JND may, prior to disbursement of the Net Settlement Amount to Eligible Claimants, withhold from the Settlement Fund Amount an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants.

17. JND shall attribute 80.24% of the Net Settlement Amount to the settlement of the Ontario Action, and 19.76% of the Net Settlement Amount to the settlement of the Quebec Actions, pursuant to s.6.4.1 of the Settlement Agreement.

18. JND shall use the Net Settlement Amount for:

- a. Payments of Eligible Claims in accordance the Claims Program and the Settlement Agreement; and
- b. Payment of the Class Proceedings Fund levy in an amount equivalent to 10% of the Net Settlement Amount to which one or more National Settlement Class members is entitled under the Claims Program in accordance with section 10(3) of O. Reg 771/92.

19. No amount set out under paragraph 18 shall be distributed to a National Settlement Class member until the Class Proceedings Fund Committee has had an opportunity to review and approve the calculation of the Class Proceedings Fund levy applicable to that particular National



Settlement Class member's payment. Where there is any dispute as to the calculation of the levy, the Parties shall appear before the National Settlement Class case management judge regarding any issues raised and pending such appearance, no funds shall be disbursed in respect of that National Settlement Class member's payment.

20. Pursuant to s. 6.6 of the Settlement Agreement, JND shall distribute any Unclaimed Balance of the Net Settlement Amount in the following manner:

- a. JND shall pay to the *Fonds d'aide aux actions collectives* the percentage of the Unclaimed Balance prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c. R-2.1, r. 2, multiplied by 19.76%; and
- b. JND shall pay any remaining Unclaimed Balance *cy-près* to a non-profit organization or organizations to be agreed to by the Defendants and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to the *Fonds d'aide aux actions collectives*.

### **Counsel Fees**

21. The Plaintiffs' Counsel Fee Amount, being an amount separate and distinct from the Settlement Fund Amount, is fair and reasonable and is hereby approved in the amount of CAD\$4,397,500, pursuant to s.32 of the *CPA*.

22. The Defendants shall, within thirty (30) days of the Effective Date, pay the Plaintiffs' Counsel Fee Amount to Co-Lead Counsel in accordance with s.12.3 of the Settlement Agreement as full and final compensation for the aggregate amount of fees, expenses, costs, disbursements, and associated taxes incurred by any and all plaintiffs' counsel in the Actions and Related Actions.

23. Co-Lead Counsel shall pay to the Class Proceedings Fund from the Plaintiffs' Counsel Fee Amount an amount of \$165,125.54 being the amount of financial support Co-Lead Counsel received from the Class Proceedings Fund in respect of disbursements incurred and not yet repaid under s.59.3 of the *Law Society Act*, R.S.O. 1990, c. L.8, in accordance with O. Reg. 771/92, s.10(3)(a).

24. Co-Lead Counsel shall allocate the Plaintiffs' Counsel Fee Amount, less the repaid amount described in paragraph 23, among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Co-Lead Counsel deems fit.

#### **Release and Dismissal**

25. Upon the Effective Date, all National Settlement Class Releasing Parties shall be bound by the Settlement Class Members' Release.

26. The Ontario Action shall be dismissed with prejudice and without costs as of the Effective Date, and such dismissal shall be a full defence to any subsequent action in respect of the subject matter thereof.

27. This Court shall retain an ongoing supervisory role for the purpose of implementing, administering, and enforcing the Settlement Agreement in accordance with s.14.2 of the Settlement Agreement.

28. Any party may bring a motion to this Court at any time for directions with respect to the implementation, interpretation, administration, or enforcement of the Settlement on notice to all other Parties.

---

**THE HONOURABLE JUSTICE GLUSTEIN**



OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiff

-and-

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known as  
GENERAL MOTORS OF CANADA COMPANY)

Defendants

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**AMENDED SETTLEMENT AGREEMENT**

Dated as of July 23, 2024

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F	Initial Press Release
G	Reminder Press Release
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## 1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts and without any admission or concession of liability or wrongdoing or lack of merit in their defenses by the Released Parties, all class claims asserted in the Actions and Related Actions by the Settlement Class Members (the “**Settlement**”).

Following negotiations facilitated by a mediator, The Honourable Justice Thomas Cromwell, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

Pursuant to this Settlement, benefits shall be offered to Settlement Class Members claiming economic loss in relation to a Subject Vehicle. All class claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage arising from an accident involving a Subject Vehicle shall be discontinued or removed, and claimants may instead pursue claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage individually.

Only after agreeing to the principal terms set forth in this Settlement Agreement, the Parties, with additional facilitation by The Honorable Justice Thomas Cromwell as mediator, negotiated the Plaintiffs’ Counsel Fee Amount, an amount that is separate and apart from the benefits provided to the Settlement Class in this Settlement Agreement.

## 2. DEFINITIONS

As used in this Settlement Agreement and its attached schedules, which schedules are an integral part of this Settlement Agreement and are incorporated by reference in their entirety, the following capitalized terms have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in this Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**AAT**” means the Motors Liquidation Company Avoidance Action Trust established pursuant to the Old GM Plan.



- 2.2 “**AAT Administrator**” means Wilmington Trust Company, solely in its capacity as trust administrator and trustee of the AAT pursuant to the Fourth Amended and Restated Motors Liquidation Company Avoidance Action Trust Agreement, dated as of February 25, 2019, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**AAT Agreement**”).
- 2.3 “**AAT Monitor**” means Arthur J. Gonzalez, solely in his capacity as trust monitor of the AAT pursuant to the AAT Agreement.
- 2.4 “**Actions**” means the following three (3) actions:
- 2.4.1 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (“**Ontario Action**”);
- 2.4.2 the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.* (the “**Québec Actions**”);
- 2.5 “**Actions Counsel**” means the various Settlement Class Members’ counsel who filed, or who have any claim for, or interest in, legal fees and disbursements in any way, directly or indirectly, related to, the Actions and the Related Actions, including Rochon Genova LLP, Kim Spencer McPhee P.C., LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, Merchant Law Group and Wagners.
- 2.6 “**Administrative Expenses**” means the fees and disbursements of, or incurred by, the Settlement Administrator to perform the duties and services in implementing this Settlement Agreement, including the cost of all notices to Settlement Class Members, all fees and costs of the accountant utilized by the Settlement Administrator to administer deposits to and disbursements from the escrow account containing the Settlement Fund Amount, all fees and costs to implement and

administer the Claims Program, as well as all fees and costs of maintaining an escrow account containing the Settlement Fund Amount (e.g., bank fees).

- 2.7 “**Adjusted Base Payment Amount**” has the meaning ascribed in Section 4.3.2.
- 2.8 “**Amendment Order**” means the order of the Superior Court of Québec granting the amendment of the pleadings in the Québec Actions to name only General Motors LLC and General Motors of Canada Company as defendants and to remove references to “mental distress”, “psychological and emotional distress”, “anxiety”, “fear” and “moral damages”.
- 2.9 “**Approval Notice**” means the English and French versions of the notice to Settlement Class Members substantially in the form attached to this Settlement Agreement as **Schedule “D”**, advising of the approval by the Courts of this Settlement, that the Effective Date has occurred, the commencement date of the Claims Program, the Claims Deadline, the Final Recall Repair Date, the Settlement Website, and how to access the Claims Program.
- 2.10 “**Approval Orders**” means the orders and/or judgments of the Courts approving the Settlement provided for in this Settlement Agreement without any modifications, approving the Approval Notice, and granting the Settlement Class Members’ Release.
- 2.11 “**Base Payment Amount**” has the meaning ascribed in Section 4.3.1.
- 2.12 “**Certification Notice**” means the English and French versions of the Short-Form Certification Notice and Long-Form Certification Notice to Settlement Class Members substantially in the forms attached to this Settlement Agreement as **Schedules “B”** and **“C”**, respectively, advising of the certification/authorization of the Actions for settlement purposes only; the address of the Settlement Website; the Opt-Out Deadline and procedure for opting out of this Settlement; the Objection Deadline and procedure for objecting to this Settlement; and, as approved by the Courts, the removal or discontinuance of all alleged class claims for wrongful death or personal injury (including *Family Law Act* (Ontario) or analogous claims) or

actual physical property damage arising from an accident involving a Subject Vehicle.

- 2.13 “**Certification Orders**” means the orders of the Courts (a) certifying/authorizing the Actions for settlement purposes only with respect to the National Settlement Class and the Québec Settlement Class; (b) appointing the Settlement Administrator; (c) approving the Notice Program and Certification Notice; and (d) setting the Opt-Out Deadline and Objection Deadline.
- 2.14 “**Claim**” means a properly completed Claim Form pertaining to a single Subject Vehicle submitted by or on behalf of a Claimant with all required supporting documentation to the Settlement Administrator on or before the Claims Deadline.
- 2.15 “**Claim Form**” means the document that enables a Claimant to apply for benefits under this Settlement Agreement, substantially in the form attached to this Settlement Agreement as **Schedule “E”**.
- 2.16 “**Claimant**” means a Person who purports to be a Settlement Class Member who completes and submits a Claim Form on or before the Claims Deadline, either directly or through their estate or legal representative.
- 2.17 “**Claims Deadline**” means the deadline by which a Claimant must submit a complete and valid Claim, which, subject to Section 15.11, shall be one hundred twenty (120) days from the Effective Date.
- 2.18 “**Claims Program**” means the program that the Settlement Administrator shall use to review and assess the eligibility of Claims, and to determine the benefits that Eligible Claimants are to receive under this Settlement Agreement, as described in Section 7 of this Settlement Agreement.
- 2.19 “**Co-Lead Counsel**” means Rochon Genova LLP and Kim Spencer McPhee Barristers P.C., as defined in the order of Perell J. dated October 11, 2016.
- 2.20 “**Courts**” means the Ontario Superior Court of Justice and the Superior Court of Québec.

- 2.21 “**Deficiency Notice**” has the meaning ascribed in Section 7.8.
- 2.22 “**Discontinuance Order**” means the order of the Ontario Superior of Justice discontinuing all alleged class claims in the Ontario Action for wrongful death, personal injury, claims under the *Family Law Act* (Ontario) (and analogous legislation in other Provinces), and/or claims for actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
- 2.23 “**Effective Date**” means the first business day after the last of the Required Orders becomes Final and so long as GM does not exercise its unilateral termination right provided for in Section 10.15, or a date thereafter that is agreed to in writing by the Parties.
- 2.24 “**Eligible Claim**” means a Claim that the Settlement Administrator has determined to be eligible to receive benefits under this Settlement Agreement pursuant to the process set forth in Section 7 of this Settlement Agreement.
- 2.25 “**Eligible Claimant**” means a Settlement Class Member who has submitted an Eligible Claim.
- 2.26 “**Excluded Persons**” means the following Persons
- 2.26.1 authorized GM dealers;
  - 2.26.2 daily rental fleet purchasers, owners and lessees (that is a Person engaged in the business of rental of passenger cars, without drivers, to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals) which shall be based upon GM data that it provides to the Settlement Administrator and shall be determinative;
  - 2.26.3 governmental or quasi-governmental bodies;
  - 2.26.4 the judicial officers presiding over the Actions and Related Actions and their immediate family members;

- 2.26.5 Actions Counsel as well as members of their staff and immediate family;
- 2.26.6 all Persons who have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls whose names shall be provided by GM to the Settlement Administrator; and
- 2.26.7 valid Opt-Outs.
- 2.27 “**Final**” means, in respect of any Required Orders contemplated by this Settlement Agreement, the issued and entered orders are upheld on any appeal or the time limit for any such appeal has lapsed.
- 2.28 “**Final Base Payment Amount**” has the meaning ascribed in Section 4.3.7.
- 2.29 “**Final Recall Repair Date**” means one hundred eighty (180) days after the Effective Date.
- 2.30 “**GM**” means New GM and GM Canada collectively.
- 2.31 “**GM Canada**” means General Motors of Canada Company (formerly General Motors of Canada Limited).
- 2.32 “**GUC Trust**” means the Motors Liquidation Company GUC Trust established pursuant to the Old GM Plan.
- 2.33 “**GUC Trust Administrator**” means Wilmington Trust Company, solely in its capacity as GUC Trust Administrator and Trustee of the GUC Trust pursuant to the Second Amended and Restated Motors Liquidation Company GUC Trust Agreement, dated as of July 30, 2015, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**GUC Trust Agreement**”).
- 2.34 “**GUC Trust Monitor**” means FTI Consulting, Inc., solely in its capacity as trust monitor of the GUC Trust pursuant to GUC Trust Agreement.
- 2.35 “**Joint Retention Agreement**” has the meaning ascribed in Section 5.2.

- 2.36 “**Long-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “C”**.
- 2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.
- 2.38 “**Net Settlement Amount**” means the amount determined by deducting from the Settlement Fund Amount (a) Administrative Expenses; (b) any honouraria payments that are to be paid to plaintiffs as awarded by the Courts; and (c) any taxes required to be paid with respect to the Settlement Fund Amount or amounts withheld by the Settlement Administrator to cover anticipated future tax liabilities as provided for in Section 6.5.2.
- 2.39 “**New GM**” means General Motors LLC.
- 2.40 “**Notice Program**” means the program for the publication and dissemination of the Settlement Class Notices as agreed by the Parties in consultation with the Settlement Administrator and as approved by the Courts in the Certification Orders.
- 2.41 “**Objection Deadline**” means the deadline for Settlement Class Members to object to this Settlement, which shall be sixty (60) days after a Certification Notice is first published or disseminated.
- 2.42 “**Objection Form**” means the document that enables a Settlement Class Member to object to the Settlement, substantially in the form attached to this Settlement Agreement as **Schedule “H”**.
- 2.43 “**Old GM**” means Motors Liquidation Company f/k/a General Motors Corporation.
- 2.44 “**Old GM Bankruptcy Estates**” means the Debtors’ (as defined in the Old GM Plan) estates created upon the commencement of the chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, captioned *In re Motors Liquidation Corporation, et al. f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG), including, without limitation, all property, rights, defenses and claims included therein.

- 2.45 “**Old GM Plan**” means the *Debtors’ Second Amended Joint Chapter 11 Plan*, dated March 18, 2011, and as confirmed by the United States Bankruptcy Court for the Southern District of New York on March 29, 2011.
- 2.46 “**Opt-Outs**” means all Persons meeting the definition of Settlement Class Members who have submitted timely requests for exclusion from this Settlement in conformity with the procedural and substantive requirements of this Settlement Agreement and the Certification Orders, prior to the Opt-Out Deadline, and who do not revoke such request for exclusion prior to the Opt-Out Deadline or other date as ordered by the Court.
- 2.47 “**Opt-Out Deadline**” means sixty (60) days after a Certification Notice is first published or disseminated.
- 2.48 “**Opt-Out Form**” means that document, that if validly completed and submitted by a Settlement Class Member before the Opt-Out Deadline, excludes that Settlement Class Member from participating in this Settlement, substantially in the form attached to this Settlement Agreement as **Schedule “I”**.
- 2.49 “**Parties**” means the Settlement Class Representatives, Co-Lead Counsel and GM.
- 2.50 “**Person(s)**” means an individual, corporation, business, company, firm, partnership, association, proprietorship, trust, estate, governmental or quasi-governmental body, or any other entity or organization.
- 2.51 “**Plaintiffs’ Counsel Fee Amount**” means such funds as may be approved and awarded in the aggregate by the Courts, pursuant to Plaintiffs’ Counsel Fee Amount Orders, as the full and total amount of fees, expenses, costs, disbursements and associated taxes that GM shall pay to compensate any and all plaintiffs’ counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, and that shall not, under any circumstances exceed CA\$4,397,500.00 (four million, three-hundred and ninety seven thousand and five hundred Canadian dollars) (the “**Maximum Plaintiffs’ Counsel Fee Amount**”).

- 2.52 “**Plaintiffs’ Counsel Fee Amount Orders**” means the orders of both Courts approving the payment to Actions Counsel of the Plaintiffs’ Counsel Fee Amount.
- 2.53 “**Preliminary Administrative Expenses**” has the meaning ascribed in Section 5.2 and are part of the Administrative Expenses.
- 2.54 “**Québec Settlement Class**” means all Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.
- 2.55 “**Recalls**” means the GM vehicle recalls covered by the following Transport Canada Recall Numbers:
- 2.55.1 2014-038, 2014-060, and 2014-101 (collectively the “**Delta Ignition Switch Recall**”);
- 2.55.2 2014-273, 2014-246, and 2014-284 (collectively the “**Key Rotation Recall**”);
- 2.55.3 2014-243 (the “**Camaro Knee-Key Recall**”); and
- 2.55.4 2014-104 (the “**Electric Power Steering Recall**”).
- 2.55.5 For purposes of cross-reference, the below table lists the GM Recall Numbers and Transport Canada Recall Numbers for each of the Recalls:

	GM Recall Number	Transport Canada Recall Number
<b>Delta Ignition Switch Recall</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
<b>Key Rotation Recall</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key Recall</b>	14294	2014-243
<b>Electric Power Steering Recall</b>	14115	2014-104
	14116	
	14117	
	14118	



2.56 “**Recall Announcement Date**” means the certain date in the chart below that is the end of the month following the month of GM’s last initial notification to owners/lessees of each Recall, according to GM's internal data. For a Subject Vehicle subject to more than one of the Recalls, the Recall Announcement Date shall be the later of the dates in the chart below:

	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	13454	2014-038	September 30, 2014
	14063	2014-060	
	14092	2014-101	
Key Rotation Recall	14172	2014-273	November 30, 2014
	14497		
	14299	2014-246	
	14350	2014-284	
Camaro Knee-Key Recall	14294	2014-243	October 31, 2014
Electric Power Steering Recall	14115	2014-104	February 28, 2015
	14116		
	14117		
	14118		

2.57 “**Recall Repair Deficiency Notice**” has the meaning ascribed in Section 7.11.

2.58 “**Related Actions**” means the twelve (12) actions listed below:

2.58.1 the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

2.58.2 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (“**Herbel Action**”);

2.58.3 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (“**Hall Action**”);

2.58.4 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (“**Fradette Action**”);

2.58.5 the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (“**Coen Action**”);

2.58.6 the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (“**Standingready Action**”);

2.58.7 the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (“**Seeley Action**”);

2.58.8 the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (“**Spicer Action**”);

2.58.9 the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (“**Brown Action**”);

2.58.10 the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (“**Mulford Action**”);

2.58.11 the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (“**Dunphy Action**”);

2.58.12 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (“**Academie Action**”);

- 2.59 “**Released Claims**” has the meaning ascribed in Section 11.3.
- 2.60 “**Released Parties**” means each of the following persons and entities, jointly and severally, individually and collectively (individually, “**Released Party**”):
- 2.60.1 General Motors of Canada Limited (now known as General Motors of Canada Company), General Motors Company, General Motors LLC, General Motors Holdings LLC, Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.;
- 2.60.2 Any and all Persons, including dealerships, involved in any of the design, manufacture, assembly, testing, sale, repair, marketing, advertising, inspection, maintenance, recall, or distribution of a Subject Vehicle;
- 2.60.3 Any and all suppliers of materials, components, and/or services used in the manufacture of a Subject Vehicle;
- 2.60.4 General Motors Corporation, Motors Liquidation Company, the GUC Trust Monitor, the GUC Trust Administrator, the GUC Trust, any former, current, or future holder of Units (as defined in the GUC Trust Agreement) issued by the GUC Trust (“**Unitholders**”), the AAT, the AAT Administrator, the AAT Monitor, the Old GM Bankruptcy Estates, and any other trust established by the Old GM Plan to hold or pay liabilities of Old GM; and
- 2.60.5 Any and all past, present and future officers, directors, agents, employees, servants, associates, spouses, representatives, subsidiaries, affiliated companies, parent companies, joint-ventures and joint-venturers, partnerships and partners, members, stockholders, shareholders, bondholders, Unitholders, beneficiaries, trustees, insurers, reinsurers, dealers, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, divisions, agents, agents’ representatives, lawyers, administrators, advisors, predecessors, successors, heirs, executors and assignees of any of the above.
- 2.61 “**Releasing Parties**” means the Settlement Class Members who are not Opt-Outs, each on behalf of themselves and their heirs, beneficiaries, estates, executors,

administrators, representatives, agents, counsel, insurers, reinsurers, subsidiaries, corporate parents, predecessors, successors, indemnitors, subrogees, assigns, and any legal, juridical, or natural person or entity who may claim, by, through, under or on behalf of them.

2.62 **“Required Orders”** means:

2.62.1 The following issued, entered, and Final orders by the Courts: (a) the Amendment Order; (b) the Discontinuance Order; (c) the Certification Orders; and (d) the Approval Orders; and

2.62.2 Issued, entered, and Final orders dismissing the Related Actions with prejudice and without costs.

2.63 **“Settlement Administrator”** means the third-party agreed to by the Parties to administer the Settlement pursuant to the terms and conditions of this Settlement Agreement and applicable Required Orders with such administration to include, but not be limited to, administration of the Settlement Class Notices, administration of the Claims Program, implementing and administering the Settlement Website, opening an escrow account into which the Settlement Fund Amount shall be deposited and making disbursements from the Settlement Fund Amount to pay Administrative Expenses and to make settlement payments to Eligible Claimants.

2.64 **“Settlement Agreement”** means this amended settlement agreement, including its schedules, exhibits, addenda, and any supplemental agreements agreed to in writing by the Parties.

2.65 **“Settlement Approval Hearings”** means the hearings before the Courts for the purpose of obtaining the Approval Orders.

2.66 **“Settlement Class”** means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in

Canada. The Settlement Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

- 2.67 “**Settlement Class Member**” means a member of the Settlement Class (collectively “**Settlement Class Members**”).
- 2.68 “**Settlement Class Members’ Release**” means the full and final release of the Released Parties, and waiver, bar order, and covenant not to sue the Released Parties, by the Releasing Parties as particularized in Section 11 of this Settlement Agreement.
- 2.69 “**Settlement Class Notices**” means the English and French versions of the Certification Notice and Approval Notice.
- 2.70 “**Settlement Class Representatives**” means with respect to the Ontario Action, Stacey Green, and with respect to the Québec Actions, Michael Gagnon.
- 2.71 “**Settlement Fund Amount**” means the amount of CA\$12,000,000.00 (twelve million Canadian dollars), which is the full and total amount to be paid by GM in this Settlement other than the Plaintiffs’ Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of this Settlement Agreement, and which shall not be paid by GM unless and until each of the terms and conditions for such payment set forth in this Settlement Agreement are met.
- 2.72 “**Settlement Website**” means the website, in English and French, administered by the Settlement Administrator to facilitate the Settlement.

- 2.73 “**Short-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “B”**.
- 2.74 “**Subclasses**” means each of the four subclasses as follows:
- 2.74.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and
- 2.74.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and
- 2.74.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and
- 2.74.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).
- 2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.
- 2.75 “**Subject Vehicles**” means the GM motor vehicles subject to the Recalls as specifically defined by the VINs provided by GM to the Settlement Administrator. A general list of the make, model and model years of GM vehicles that may be subject to each Recall is attached to this Settlement Agreement as **Schedule “A”**. Since not all vehicles of a certain make, model or model year may have been

subject to a Recall, only the VINs provided by GM to the Settlement Administrator for each make, model and model year GM vehicle are Subject Vehicles.

2.76 “**Unclaimed Balance**” means any funds that remain from the Net Settlement Amount after the distribution of settlement payments to Eligible Claimants and the expiry of at least one-hundred and eighty (180) days following the last payment to Eligible Claimants.

2.77 “**VIN**” means the vehicle identification number.

2.78 The term “their” includes “it” or “its” where applicable.

### **3. CERTIFICATION FOR SETTLEMENT PURPOSES AND SETTLEMENT AGREEMENT APPROVAL**

3.1 Promptly after the execution of this Settlement Agreement, Co-Lead Counsel shall submit this Settlement Agreement to the Courts pursuant to motions for the Certification Orders. Simultaneously, Co-Lead Counsel shall bring a motion before the Superior Court of Québec seeking the Amendment Order, a motion before the Ontario Superior Court of Justice seeking the Discontinuance Order, and Actions Counsel shall seek the dismissal of the Related Actions with prejudice pursuant to motions brought before the relevant court for each Related Action.

3.2 The motions for the Certification Orders submitted to both Courts shall specify that Co-Lead Counsel seek a Certification Order that is conditional upon a complementary Certification Order being made by the other Court.

3.3 Any certification/authorization of the Actions shall be for the purpose of this Settlement only, and the Released Parties retain all rights to assert that certification/authorization of a class in the Actions and Related Actions for any other purpose is not appropriate.

3.4 This Settlement Agreement shall be null and void and of no force and effect unless the Required Orders are entered in a form agreed to by the Parties and the Effective Date occurs, unless otherwise agreed to in writing by the Parties.

#### 4. SETTLEMENT BENEFITS

4.1 Subject to the termination rights as set out in Section 13, and other terms and conditions of this Settlement Agreement, and in consideration for the Settlement Class Members' Release, after the Effective Date, GM agrees to provide to the Settlement Class Members the consideration of payment of the Settlement Fund Amount, as well as separate payment of the Plaintiffs' Counsel Fee Amount. This Section 4 describes allocation of the Net Settlement Amount, which shall be paid to Eligible Claimants from out of the Settlement Fund Amount. Sections 5 and 6 address GM's payment of Administrative Expenses and the Settlement Fund Amount Balance, respectively. GM's separate payment of the Plaintiffs' Counsel Fee is addressed in Section 12 below.

4.2 The Net Settlement Amount shall be distributed to Eligible Claimants after the Final Recall Repair Date in the following manner to be computed by the Settlement Administrator:

4.2.1 Each Eligible Claim by members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.2.2 Each Eligible Claim by members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3 In order to determine the settlement payment amount for each Eligible Claim for each Subclass, the following calculation process shall be used:

4.3.1 First, the number of all Eligible Claims for all Subclasses shall be divided into the Net Settlement Amount to determine an initial "**Base Payment Amount**" for calculation purposes. Only an Eligible Claim of an Eligible Claimant with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be counted twice, once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass.



4.3.2 Second, an “**Adjusted Base Payment Amount**” shall be determined by multiplying the Base Payment Amount by a factor of two (2) for Eligible Claims in the Delta Ignition Switch Subclass, by a factor of one-and-a-half (1.5) for Eligible Claims in the Key Rotation Subclass, and by a factor of one (1) for Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3.3 Third, the Adjusted Base Payment Amount for each Subclass shall be multiplied by the number of Eligible Claims in that Subclass to determine the total value of the Eligible Claims for that Subclass.

4.3.4 Fourth, the total value of the Eligible Claims for each Subclass shall be totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage.

4.3.5 Fifth, each Subclass’ percentage shall be applied to the Net Settlement Amount in order to determine a prorated value of Eligible Claims for each Subclass.

4.3.6 Sixth, each Subclass’ prorated value of Eligible Claims shall be divided by the number of all Eligible Claims for that Subclass to determine the payment amount for each Subclass’ Eligible Claim.

4.3.7 Thus, and put another way, the “**Final Base Payment Amount**”, that is, the one that forms the basis for payments to Settlement Class Members for each of their individual Eligible Claims, can be calculated as

$$[\text{Net Settlement Amount}] / [2 \times (\text{no. of Eligible Claims in Delta Ignition Switch Subclass}) + 1.5 \times (\text{no. of Eligible Claims in Key Rotation Subclass}) + 1 \times (\text{no. of Eligible Claims in Camaro Knee-Key Subclass}) + 1 \times (\text{no. of Eligible Claims in Electric Power Steering Subclass})]$$

Eligible Claimants in the Camaro Knee-Key Subclass and Electric Power Steering Subclass will receive that Final Base Payment Amount. Eligible Claimants in the Delta Ignition Switch Subclass will receive 2x the Final Base Payment Amount. Eligible Claimants in the Key Rotation Subclass will receive 1.5x the Final Base

Payment Amount. Eligible Claimants with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive 3x the Final Base Payment Amount.

## 5. ADMINISTRATIVE EXPENSES

- 5.1 All Administrative Expenses, including Preliminary Administrative Expenses, shall be paid from out of the Settlement Fund Amount, and GM shall not pay any additional amount toward Administrative Expenses.
- 5.2 The Parties will enter into a “**Joint Retention Agreement**” with the Settlement Administrator that will specify the permissible Administrative Expenses that GM agrees to pay from the Settlement Fund Amount for Administrative Expenses that are expected to be incurred before the Effective Date, including, but not limited to, costs associated with vendors retained to assist with delivering the Certification Notice to the Settlement Class, the development and implementation of the Settlement Website and the implementation of the Settlement Phone Number (as defined in Section 9.7) (the “**Preliminary Administrative Expenses**”). The Joint Retention Agreement will include a maximum amount to be determined in GM’s sole discretion that GM shall pay for the Preliminary Administrative Expenses.
- 5.3 GM agrees to pay, before the Effective Date, the Preliminary Administrative Expenses into the escrow account to be opened by the Settlement Administrator, and any payment out of the escrow account shall only be to the Settlement Administrator to pay invoices for Preliminary Administrative Expenses and only with the express written consent of GM and Co-Lead Counsel.
- 5.4 Any payment out of the escrow account by the Settlement Administrator pertaining to invoices for Administrative Expenses incurred on or after the Effective Date shall be subject to the express written consent of Co-Lead Counsel and GM.
- 5.5 If this Settlement Agreement is terminated pursuant to Section 13, any amount that GM agreed to pay in Preliminary Administrative Expenses less any unearned or unspent amount of such Preliminary Administrative Expenses and accrued interest

in the escrow account on such Preliminary Administrative Expenses, which shall be promptly refunded to GM by the Settlement Administrator from the escrow account, shall be the full and total amount that GM shall be obligated to pay in this Settlement.

- 5.6 In the event that this Settlement Agreement is not terminated, any amount that GM agrees to pay in Preliminary Administrative Expenses shall be deducted from the remainder of the Settlement Fund Amount that GM shall pay pursuant to Section 6.1.

**6. PAYMENT OF SETTLEMENT FUND AMOUNT BALANCE**

- 6.1 Subject to the termination rights as set forth in Section 13, GM shall pay the Settlement Fund Amount, less any amount GM has paid for Preliminary Administrative Expenses, into the escrow account to be opened and maintained by the Settlement Administrator within thirty (30) days of the Effective Date.

- 6.2 If this Settlement Agreement is not terminated pursuant to Section 13, the Settlement Fund Amount together with the Plaintiffs' Counsel Fee Amount comprise the full and total amount that GM shall be obligated to pay in consideration of this Settlement. GM shall not, under any circumstances, be responsible for, or liable for, payment of any amount in this Settlement greater than the combined amount of the Settlement Fund Amount plus the Plaintiffs' Counsel Fee Amount.

- 6.3 The Settlement Administrator shall not pay out all or part of the monies in the escrow account except in accordance with Sections 5.3, 5.4 and 7.15 of this Settlement Agreement, as well as in accordance with an order of the Court(s).

**6.4 Apportionment of Net Settlement Amount.**

6.4.1 As to the portions of the Net Settlement Amount attributable to and for the Ontario Action and the Québec Actions, Actions Counsel stipulates, and the Defendants accept, that, based on GM's best available data, which shall be

determinative, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action, and that 19.76% of the Net Settlement Amount will be attributed to the settlement of the Québec Actions.

## 6.5 **Interest and Taxes.**

6.5.1 Subject to Section 6.5.3, all interest earned on the Settlement Fund Amount until the Settlement Administrator conducts the calculation of settlement payments as stipulated in Section 4.2 shall form part of the Net Settlement Amount to be allocated by the Settlement Administrator to Eligible Claimants pursuant to Section 4.2 above. All interest earned on the Settlement Fund Amount after that date shall form part of the Unclaimed Balance.

6.5.2 Subject to Section 6.5.3, all taxes payable on any interest that accrues on the Settlement Fund Amount shall be paid from the Settlement Fund Amount. The Settlement Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Fund in the escrow account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Fund Amount shall be paid from the Settlement Fund Amount in the escrow account. The Settlement Administrator is entitled to withhold from the Settlement Fund Amount prior to disbursement of the Net Settlement Amount to Eligible Claimants an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants with any remainder after payment of taxes to form part of the Unclaimed Balance.

6.5.3 GM shall have no responsibility to make any filings relating to the escrow account and will have no responsibility to pay tax on any income earned by the Settlement Fund Amount or pay any taxes on the monies in the escrow account, unless this Settlement Agreement is terminated or invalidated, in which case the interest earned on the Settlement Fund Amount in the escrow account or otherwise

shall be paid to GM, which, in such case, shall be responsible for the payment of any taxes on such interest.

6.6 **Remainder Funds.** Should there be any Unclaimed Balance of the Net Settlement Amount, those funds shall be distributed from the escrow account by the Settlement Administrator in the following manner:

6.6.1 For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2, shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4.

6.6.2 Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4, shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

## 7. CLAIMS PROGRAM PROCESS AND ADMINISTRATION

7.1 The Claims Program shall commence with the acceptance of Claim Forms as soon as reasonably practicable after the Effective Date.

7.2 The Claim Form and Approval Notice shall be made available on the Settlement Website as soon as reasonably practicable following the Effective Date. The Settlement Administrator shall mail paper copies of the Claim Form and Approval Notice to Persons who request such copies.

7.3 Claimants may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by email, or physically by mail to the Settlement Administrator.

- 7.4 Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline in order for the Claimant to qualify as an Eligible Claimant. Claim Forms submitted electronically or postmarked after the Claims Deadline shall be rejected by the Settlement Administrator as untimely, shall not be reviewed, and shall not qualify as an Eligible Claim.
- 7.5 It is a fundamental condition of this Settlement and the intention of the Parties that all Recall repairs must be completed on a Subject Vehicle by an authorized GM dealer on or before the Final Recall Repair Date for a Claim to become an Eligible Claim, unless the Claimant establishes that they no longer have possession, custody, or control of the Subject Vehicle and, therefore, have no ability themselves to have the Recall repairs performed.
- 7.6 To become an Eligible Claimant with an Eligible Claim, a Settlement Class Member must:
- 7.6.1 Submit to the Settlement Administrator a completed Claim Form on or before the Claims Deadline, and any additional documentation the Settlement Administrator may thereafter require, to establish that:
- 7.6.1.1 The Claimant owned or leased a Subject Vehicle on or before the Recall Announcement Date of the applicable Recall (no Person may submit more than one claim per individual Subject Vehicle);
- 7.6.1.2 The Claimant is not an Excluded Person; and
- 7.6.1.3 If GM's records supplied to the Settlement Administrator show that all repairs have not been completed for any Recalls relating to the Subject Vehicle, and the Claimant is the current owner or lessee of the Subject Vehicle:
- (a) then, on or before the Final Recall Repair Date, all repairs have been completed by an authorized GM dealer for any Recalls relating to the Subject Vehicle; or

- (b) the Subject Vehicle is no longer in the Claimant's possession, custody, or control.

GM has the option, in its sole discretion, to determine whether or not the documentation provided with respect to this Section 7.6.1.3 is sufficient, and GM may, in its sole discretion, delegate any such determination to the Settlement Administrator, in which case GM has the right to audit the Settlement Administrator's determinations before the Net Settlement Amount is distributed to Eligible Claimants. If GM does not exercise these options in regard to any particular Claim, the Settlement Administrator shall determine the sufficiency of such documentation for that Claim.

- 7.7 The Settlement Administrator shall review all Claims to ensure that the Claimants provide information that demonstrates:

- 7.7.1 that the VIN supplied by the Claimant for their Subject Vehicle is included on a list of VINs of Subject Vehicles supplied by GM to the Settlement Administrator, which list shall be determinative;

- 7.7.2 that the Claimant is not an Excluded Person;

- 7.7.3 that the Claimant is a current or former owner or lessee of a Subject Vehicle on or before the applicable Recall Announcement Date; and

- 7.7.4 if the data supplied to the Settlement Administrator by GM indicates that the Recall repairs have not been completed on the Subject Vehicle, that the Claimant no longer has possession, custody, or control of the Subject Vehicle, or, if they have possession, custody or control of a Subject Vehicle, that the Recall repair(s) have been performed on the Subject Vehicle on or before the Final Recall Repair Date.

- 7.8 The Settlement Administrator has the right to request verification of claim eligibility, including verification of the purchase, ownership, lease or resale of Subject Vehicles, and completion of the Recall repairs by an authorized GM dealer.

If the Settlement Administrator determines that a Claimant has not sufficiently completed the Claim Form, or failed to submit all required or requested documentation, the Settlement Administrator shall send written notification to the Claimant identifying the missing information (including by e-mail where the Claimant selects e-mail as their preferred method of communication) (“**Deficiency Notice**”).

7.9 The Settlement Administrator shall send a Claimant a Deficiency Notice if it determines that additional information is required to complete, verify, or substantiate the Claim. Such information includes but is not limited to:

7.9.1 if the Claimant did not complete all sections of the Claim Form;

7.9.2 if the Claimant submitted insufficient vehicle information on the Claim Form;

7.9.3 if documentation is required to substantiate and/or verify the information contained in the Claim Form; and/or

7.9.4 if the Claim Form is not signed.

7.10 The Claimant shall have thirty (30) days from the postmark date or email sent date of the Deficiency Notice to submit the requested information or documentation. If the Claimant does not timely submit their response on or before said thirty (30) days, the Claim shall be deemed invalid, ineligible, and not paid.

7.11 The Settlement Administrator shall utilize data supplied by GM to determine whether the Recall repair(s) were performed on the Subject Vehicle. If the GM data indicates that the Recall repair(s) have not yet been performed and the Claimant is the current owner or lessee of the Subject Vehicle, the Settlement Administrator shall send a “**Recall Repair Deficiency Notice**” to the Claimant identifying the incomplete Recall repair(s) that must be completed by an authorized GM dealer on or before the Final Recall Repair Date. The Settlement Administrator may require confirmation and documentary proof (e.g. a repair order on an authorized GM



dealer's form) from the Claimant of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle, which must be on or before the Final Recall Repair Date, and the authorized GM dealer at which the outstanding Recall repair(s) were performed, or the Settlement Administrator may rely on updated data supplied by GM to verify that the Recall repair(s) have been completed on or before the Final Recall Repair Date.

- 7.12 A Claimant who receives a Recall Repair Deficiency Notice must obtain the outstanding Recall repair(s) for the Subject Vehicle on or before the Final Recall Repair Date, and, if requested by the Settlement Administrator, must submit to the Settlement Administrator documentary proof (e.g. a repair order on an authorized GM dealer's form) of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle and the authorized GM dealership at which the outstanding Recall repair(s) were performed on the Subject Vehicle on or before thirty (30) days after the Final Recall Repair Date. If the Claimant does not timely respond to the Recall Repair Deficiency Notice on or before said thirty (30) days after the Final Recall Repair Date, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.13 The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Program. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim to prevent actual or possible fraud and abuse and shall report any such fraud or abuse to Co-Lead Counsel, GM and to law enforcement authorities.
- 7.14 If the Settlement Administrator's review establishes that a Claim clearly demonstrates eligibility for a payment and is an Eligible Claim, the Settlement Administrator shall approve the Claim and process it in accordance with Section 4.3, including determining to which Subclass(es) the Eligible Claimant belongs and the amount of the payment to the Eligible Claimant. With the exception of the options granted to GM in Section 7.6.1.3, the decisions of the Settlement

Administrator with respect to the eligibility or ineligibility of any Claim and amount of payment shall be final and binding on a Claimant and all Parties with no right of appeal to any court.

- 7.15 As soon as practicable following the Final Recall Repair Date plus any required cure period for deficiencies, the Settlement Administrator shall report to Co-Lead Counsel and GM the particulars of the proposed distribution of settlement payments to Eligible Claimants. No distribution of settlement monies from the escrow account shall occur without the express written approval of both Co-Lead Counsel and GM. The Settlement Administrator shall distribute settlement payments to Eligible Claimants as soon as practicable following the express written approval of both Co-Lead Counsel and GM.
- 7.16 The Settlement Administrator shall pay an Eligible Claim via issuance of a cheque sent by regular mail to the mailing address provided by the Eligible Claimant or by direct deposit to the bank account provided by the Eligible Claimant. Cheques not cashed by an Eligible Claimant within one-hundred and eighty (180) days of issuance will become stale-dated, not eligible for redemption and form part of the Unclaimed Balance. There will be no obligation to reissue stale-dated cheques.
- 7.17 Upon the completion of the Claims Program, Claimants shall be able to view the Settlement Website or otherwise contact the Settlement Administrator for information about their Claim.
- 7.18 The Settlement Administrator shall prepare periodic reports on the progress and status of the Claims Program that shall be provided to GM and Co-Lead Counsel. Unless otherwise reasonably requested by GM or Co-Lead Counsel, the Settlement Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter until one-hundred and eighty (180) days after the issuance of payments to Eligible Claimants. These reports shall include information sufficient to allow GM and Co-Lead Counsel to assess the Claims Program's progress. The Parties may request that the Settlement

Administrator include specific information within the reports to facilitate the assessment of the Claim Program's progress.

7.19 When the Claims Program is concluded, the Settlement Administrator is to provide a final report to the Courts, GM and Co-Lead Counsel, detailing the number of Eligible Claimants that received benefits under the Settlement, the total value of those benefits in each Subclass and the individual payments to be made to each Eligible Claimant in each Subclass. After one-hundred and eighty (180) days have passed since the issuance of payments to Eligible Claimants, the Settlement Administrator is to promptly provide a report to GM and Co-Lead Counsel including an accounting of the Unclaimed Balance.

7.20 No materials submitted by any Claimant will be returned to such Claimant. The Settlement Administrator shall be permitted to dispose of any materials submitted by a Claimant after the conclusion of the Claims Program.

7.21 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating Claims and paying Eligible Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary, to the Settlement Administrator, GM, Co-Lead Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by GM to comply with obligations to regulators in Canada. The Settlement Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information.

## **8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT**

8.1 The Parties agree to collaborate and cooperate regarding the form and content of all proposed orders submitted to the Courts in the Actions and to the courts in the

Related Actions. The form and content of all such proposed orders shall be approved by the Parties before they are submitted to a court.

- 8.2 Subject to the termination rights set out in Section 13, the Parties and their successors, assigns, and counsel agree to use best and good faith efforts to obtain prompt approval of this Settlement Agreement by the Courts without modification.
- 8.3 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “F”**, announcing this Settlement following the entry of the Certification Orders by both Courts.
- 8.4 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “G”**, providing a reminder to Settlement Class Members to file Claims following the entry of the Approval Orders by both Courts and before the Claims Deadline.
- 8.5 Aside from such joint or respective press releases, neither the Parties nor Actions Counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement, unless otherwise agreed to in writing by the Parties.
- 8.6 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.7 The Parties agree to cooperate and make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the Administration Expenses, are reasonable.
- 8.8 The Parties and their successors, assigns, and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving

any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for GM and Co-Lead Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Settlement Administrator.

- 8.9 In the event that the Parties are unable to reach an agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, GM and Co-Lead Counsel may seek the assistance of the Courts to resolve such matters.

## 9. NOTICE TO THE CLASS

- 9.1 **Notice Program.** The Notice Program utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Certification Orders. Following the entry of the Certification Orders, the Notice Program shall be effectuated in the manner directed and approved by the Courts. The Parties agree that the Notice Program and methods of notice therein described are valid and effective to provide practicable notice to the Settlement Class.
- 9.2 GM shall have no additional obligations to pay for any aspect of the Notice Program other than paying the Preliminary Administrative Expenses, and, if all conditions are met, the balance of the Settlement Fund Amount. The Parties shall have the right but not the obligation to monitor, inspect and audit the costs associated with the Notice Program.
- 9.3 **Settlement Class Information.** Based on customer contact information in GM's possession, to the extent such information was registered by customers with GM, GM will make reasonable efforts to compile a list of names, email addresses and mailing addresses of Settlement Class Members. This information shall be delivered to the Settlement Administrator prior to the date the Certification Notice is to be disseminated pursuant to the Notice Program.

9.4 If this Settlement Agreement is terminated or invalidated, all information provided by GM pursuant to Section 9.3 shall be destroyed forthwith, no record of the information so provided shall be retained by Actions Counsel or the Settlement Administrator in any form whatsoever.

9.5 The Parties will work co-operatively to leverage existing data which GM may have in its possession that can be used by the Settlement Administrator to find efficient ways to effect notice and assist Claimants in filling out Claim Forms, including, but not limited to (a) utilizing ownership and lessee data, including email, if available, to provide direct notice to Settlement Class Members; and (b) providing the data to the Settlement Administrator to “auto-populate” Claim Forms, to the extent possible in accordance with Canadian law and privacy obligations.

9.6 **Certification Notice.** Details regarding the Short-Form Certification Notice and a Long-Form Certification Notice are set forth below:

9.6.1 **Short-Form Certification Notice.** Short-Form Certification Notices in English and French shall be disseminated in accordance with the Notice Program. These Short-Form Certification Notices shall include details of where to access the Settlement Website on which English and French versions of the Long-Form Certification Notice shall be made available. The Short-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “B”**.

9.6.2 **Long-Form Certification Notice.** The Long-Form Certification Notice shall: (a) state that this Settlement Agreement is contingent upon entry of the Required Orders; (b) advise Settlement Class Members that they may elect to opt out of the Settlement Class by submitting an Opt-Out Form to the Settlement Administrator or the Clerk of the Superior Court of Québec, as applicable, on or before the Opt-Out Deadline; (c) advise Settlement Class Members that they may object to this Settlement Agreement by submitting an Objection Form to the Settlement Administrator or the Clerk of the Superior Court of Québec, as applicable, on or before the Objection Deadline; (d) advise that any Settlement

Class Member may enter an appearance at the Settlement Approval Hearing, including through counsel of their choice at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of their intention to opt out of the Settlement Class will be bound by the Approval Orders in the Actions, including the Settlement Class Release included therein. The Long-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “C”**. The Long-Form Certification Notice shall be posted on the Settlement Website and shall be emailed or mailed to any Person requesting a copy from the Settlement Administrator.

9.7 **Settlement Phone Number.** The Settlement Administrator shall establish and manage a Canadian toll-free phone number as soon as reasonably practicable after the entry of the Certification Orders which Settlement Class Members can call to receive automated information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining the Long-Form Certification Notice of this Settlement Agreement described in Section 9.6.2 or any other materials described in Section 9.6; (c) the Objection Deadline and Opt-Out Deadline; (d) how to submit a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Motion (the **“Settlement Phone Number”**). The information accessible through the Settlement Phone Number shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

9.8 **Settlement Website.** The Settlement Website shall be functional and accessible as soon as practicable after the entry of the Certification Orders. The domain name of the Settlement Website must be approved by the Parties in writing. The Settlement Website will have additional functionality to facilitate the submission of Claims as soon as reasonably practicable following the Effective Date. The Settlement Website shall include, in PDF format, content agreed upon by the Parties and/or as required by the Court, and shall inform Settlement Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information,

the precise content of which shall be subject to written approval of the Parties, including, but not limited to, the following information once known and/or existing:

9.8.1 The Opt-Out Deadline, the Objection Deadline, the Claims Deadline, and the Final Recall Repair Date;

9.8.2 The procedure for opting out of, or objecting to, the Settlement, including copies of the Objection Form and the Opt-Out Form;

9.8.3 The dates of the Settlement Approval Hearings;

9.8.4 Contact information for the Settlement Administrator including the Settlement Phone Number and an email address through which Settlement Class Members may send questions to the Settlement Administrator;

9.8.5 Copies of this Settlement Agreement with signatures redacted, the Certification Notice, the Approval Notice, the Certification Orders and the Approval Orders;

9.8.6 Instructions on how to obtain benefits under this Settlement;

9.8.7 A searchable VIN interface (i.e. VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;

9.8.8 A mechanism by which Claimants can electronically submit Claim Forms to pursue a Claim;

9.8.9 A mechanism by which Settlement Class Members can sign up to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy;

9.8.10 Any orders issued in the Actions or Related Actions relevant to this Settlement; and

9.8.11 Any other information the Parties determine is relevant to the Settlement.



9.9 **Settlement Approval Notice.** The Settlement Administrator shall disseminate the Approval Notice in English and French in accordance with the Notice Program. The Settlement Approval Notice shall: (i) advise Settlement Class Members that this Settlement Agreement has been approved by the Courts in the Approval Orders; and (ii) include details of how to make a Claim and where to access the Settlement Website. The Settlement Approval Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “D”**.

**10. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT**

10.1 Settlement Class Members residing outside of Québec who wish to opt-out of the Settlement Class shall submit an Opt-Out Form to the Settlement Administrator by mail, courier or email on or before the Opt-Out Deadline.

10.2 Settlement Class Members residing in Québec who wish to opt-out of the Settlement Class shall submit an Opt-Out Form to the following address by mail or courier on or before the Opt-Out Deadline:

Clerk of the Superior Court of Québec

Montréal Court house

Re: Michael Gagnon v. General Motors of Canada et. al.

500-06-000687-141 | 500-06-000729-158

1 Notre-Dame Street East, Room 1.120

Montréal, Québec H2Y 1B5

10.3 To be valid, Opt-Out Forms shall be personally signed by the purported Settlement Class Member and shall include the following:

10.3.1 The purported Settlement Class Member’s name, mailing address, telephone number, and e-mail address (if available);

10.3.2 Proof that the Person is a Settlement Class Member, including proof of the dates of ownership or lease of the Subject Vehicle and a statement that the Person is not an Excluded Person;

- 10.3.3 The make, model, model year, and VIN of the Person's Subject Vehicle;  
and
- 10.3.4 A statement that the purported Settlement Class Member elects to be excluded from the Settlement Class.
- 10.4 Settlement Class Members residing outside of Québec who wish to object to this Settlement shall submit an Objection Form to the Settlement Administrator by mail, courier or email on or before the Objection Deadline.
- 10.5 Settlement Class Members residing in Québec who wish to object to this Settlement shall submit an Objection Form to the following address by mail or courier on or before the Objection Deadline:

Clerk of the Superior Court of Québec

Montréal Court house

Re: Michael Gagnon v. General Motors of Canada et. al.

500-06-000687-141 | 500-06-000729-158

1 Notre-Dame Street East, Room 1.120

Montréal, Québec H2Y 1B5

- 10.6 To be valid, Objection Forms shall be personally signed by the purported Settlement Class Member and shall include the following:
- 10.6.1 The purported Settlement Class Member's name, mailing address, telephone number, and e-mail address (if available);
- 10.6.2 A statement affirming that the Person is not an Excluded Person;
- 10.6.3 The make, model, model year, and VIN of the Person's Subject Vehicle;
- 10.6.4 A brief statement of the nature of and reason for the objection to this Settlement; and

- 10.6.5 Whether the potential Settlement Class Member intends to appear in person or by counsel at a Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.
- 10.7 If a purported Settlement Class Member is deceased, a minor, or otherwise incapable of submitting an Opt-Out Form or Objection Form, as applicable, the Opt-Out Form or Objection Form, as applicable, must be submitted along with the contact information of the person acting on behalf of the purported Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the purported Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a purported Settlement Class Member, except in the circumstances set out in this Section.
- 10.8 Settlement Class Members who elect to opt out of the Settlement Class by submitting an Opt-Out Form may re-elect in writing to become Settlement Class Members, if their re-election request is received by the Settlement Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be members of the National Settlement Class or the Québec Settlement Class, or by written agreement of GM and Co-Lead Counsel.
- 10.9 Any Settlement Class Member who elects to opt out of the Settlement Class by submitting an Opt-Out Form may not also object to this Settlement Agreement and submit an Objection Form, subject to Section 10.8. If a Settlement Class Member elects to opt out of the Settlement Class and also objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 10.10 All Settlement Class Members who do not submit an Opt-Out Form on or before the Opt-Out Deadline will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Courts in the Approval Orders.

- 10.11 Any Settlement Class Member who submits an Objection Form shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved by the Courts in the Approval Orders, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of a Claim and other requirements herein.
- 10.12 The Settlement Administrator shall provide copies of all Opt-Out Forms and Objection Forms to GM counsel and Co-Lead Counsel on a weekly basis after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes expense.
- 10.13 GM counsel or Co-Lead Counsel shall provide to the Settlement Administrator copies of all Opt-Out Forms or Objection Forms received from the Clerk of the Superior Court of Québec.
- 10.14 The Settlement Administrator shall, no later than seven (7) days before the Settlement Approval Hearings, provide to GM and Co-Lead Counsel and file with the Court an affidavit reporting on the number of Opt-Out Forms and re-elections received on or before the Opt-Out Deadline, compiling the Objection Forms received on or before the Objection Deadline, and to the extent possible by utilizing the data received from GM, detailing whether the Settlement Class Member submitting the Opt-Out Form or Objection Form is a member of the National Settlement Class or the Québec Settlement Class.
- 10.15 The Parties have agreed to a confidential number of Opt-Outs, and will provide this number to both Courts in a document to be kept under seal by both Courts pursuant to the Parties' joint request until the Settlement Approval Hearings. If the number of Opt-Outs is greater than the confidential number agreed to by the Parties, then GM shall have the unilateral right, but not the obligation, to terminate this Settlement Agreement. GM shall advise the Courts and Co-Lead Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Settlement Administrator referred to in Section 10.14. In such event,

this Settlement Agreement shall be null, void, of no force or effect, and may not be offered or received into evidence or utilized for any other purpose in the Actions, Related Actions or in any other claim, action, suit or proceeding.

## 11. SETTLEMENT CLASS MEMBERS' RELEASE

- 11.1 The Parties agree that the Settlement Class Members' Release as set forth in this Section 11 inclusive of 11.1 to 11.17, shall take effect upon the Effective Date.
- 11.2 It is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only.
- 11.3 In consideration of this Settlement Agreement inclusive of the valuable consideration from GM set forth herein at Sections 4, 5, 6, 11 and elsewhere, effective automatically as of the Effective Date, the Releasing Parties fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, arbitrations, mediations, liabilities, suits, petitions, rights, damages and causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any and all Released Parties, arising out of, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls (individually and collectively, the "**Released Claims**"). Released Claims include, without limitation, any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, derivative or direct, asserted or un-asserted, whether or not concealed or hidden, due to, resulting from, connected with, or involving or

relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls, including without limitation (a) any claims that were or could have been asserted in the Actions or Related Actions or were the subject matter of the Actions, the Related Actions, or the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, loss of use or enjoyment (due to alleged mental/emotional/psychological distress, anxiety, fear or otherwise), sale, lease and/or resale of the Subject Vehicles or alleged mental/emotional/psychological distress, anxiety, or fear not attributable to a motor vehicle accident involving a Subject Vehicle; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary damages, liens, injunctive relief, counsel, expert, consultant, or other litigation fees or costs (other than the Settlement Fund Amount and Plaintiffs' Counsel Fee Amount to be awarded by the Courts in connection with this Settlement Agreement), and any other liabilities that were or could have been asserted in any civil, criminal, administrative, or other proceeding, including arbitration. Released Claims also include without limitation any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature on which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, tort, breach of contract, fraud, breach of statute, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the subject matter of the Actions, Related Actions, and/or Recalls.

- 11.4 Notwithstanding the foregoing, this Settlement Agreement does not release, and the definition of Released Claims does not include, any individual claims for wrongful death, personal injury (and related family/dependent claims) or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but does release, and the definition of Released Claims does include, class or

representative claims for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. For the avoidance of doubt, a Settlement Class Member may pursue an individual claim or proceeding for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but a Settlement Class Member shall not threaten, commence, participate in (as a class member or otherwise), continue, or act as a class representative or in any representative capacity in, any class or representative claim, suit, action or proceeding involving such claims against any Released Party anywhere, and shall cause any such claim, suit, action or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.

- 11.5 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under this Settlement Agreement, and the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement. For the avoidance of doubt, Co-Lead Counsel and the Settlement Class Representatives expressly understand and acknowledge that they and/or other Releasing Parties may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions, the Related Actions, the Recalls and/or the Settlement Class Members' Release. Nevertheless, it is the intention of Co-Lead Counsel and the Settlement Class Representatives in executing or authorizing the execution of this Settlement Agreement and obtaining the Approval Orders that the Releasing Parties shall fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.

- 11.6 The Releasing Parties shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding, whether in Canada or elsewhere, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other Person, with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Members' Release. To the extent that the Releasing Parties have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, the Related Actions or the Recalls, whether in Canada or elsewhere, they shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.
- 11.7 If a Releasing Party commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal, provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Releasing Party's cost, be brought to an end, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all related costs and expenses, including legal costs and disbursements, from that Releasing Party arising as a result of that Releasing Party's breach of their obligations under this Settlement Class Members' Release and the Settlement Agreement, provided that the Released Party provides written notice to the Releasing Party of their alleged breach and an opportunity to cure the breach.
- 11.8 For the avoidance of doubt, each Releasing Party is prohibited from instituting, continuing, maintaining or asserting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any suit, action, proceeding, cause of action, claim, or demand against any Released Party or any other Person who may claim contribution, indemnity or other claims of relief over from any Released Party, in respect of any matter related to the Released Claims, and any such claim shall be immediately brought to an end consistent with



Section 14.1 and the Parties shall cooperate and request any court in which such claim is or has been commenced to order the immediate dismissal of same with prejudice. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.

- 11.9 Settlement Class Members expressly agree that this Settlement Class Members' Release, the Certification Orders and the Approval Orders are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Members' Release whether in Canada or elsewhere, without regard to whether any Settlement Class Member submits a Claim, has a Claim rejected by the Settlement Administrator, or receives any payment pursuant to this Settlement.
- 11.10 The Releasing Parties expressly waive, relinquish, release with prejudice, and covenant not to exercise, and shall be deemed to have waived, relinquished, released with prejudice, and covenanted not to exercise, any and all rights and/or claims that they may have under any law, statute, regulation, adjudication, quasi-adjudication, decision, administrative decision, common law principle, or any other theory or source, that would otherwise limit the effect of the Settlement Class Members' Release, including but not limited to any law that might limit a release to those claims or matters actually known or suspected to exist at the time of execution of the release.
- 11.11 The Settlement Class Members who are not Opt-Outs represent and warrant that they are the sole and exclusive owners and holders of any and all Released Claims released under this Settlement Agreement. The Settlement Class Members who are not Opt-Outs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, subrogated or encumbered, whether through insurance, indemnification, or otherwise, any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Actions, Related Actions, Recalls or their Released Claims, including without limitation, any claim for

benefits, proceeds, or value under the Actions, the Related Actions or due to the Recalls, and that they are not aware of any insurers, indemnitors, subrogees, or anyone other than themselves claiming any interest, in whole or in part, in the Actions, Related Actions, Recalls or their Released Claims or in any benefits, proceeds, or values to which they may be entitled under the Actions, Related Actions, Recalls or as a result of their Released Claims.

- 11.12 Without in any way limiting its scope, and except with respect to the Plaintiffs' Counsel Fee Amount, the Settlement Class Members' Release includes, by example and without limitation, a release of Released Parties by the Releasing Parties from any and all claims for counsel's fees, costs, expert fees, consultant fees, interest, litigation fees, costs or any other fees, costs and/or disbursements incurred by any lawyers, Co-Lead Counsel, Actions Counsel, Settlement Class Representatives or Settlement Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Settlement Class.
- 11.13 Any and all benefits paid by GM pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims of the Releasing Parties against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Members' Release. The Settlement Class Members' Release shall be irrevocably binding upon all Releasing Parties.
- 11.14 This Settlement Class Members' Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members who do not opt out, regardless of whether those Settlement Class Members submit a Claim, have their Claim rejected by the Settlement Administrator, or receive compensation under this Settlement Agreement.
- 11.15 Nothing in the Settlement Class Members' Release shall preclude any action to enforce the terms of this Settlement Agreement, or claims arising out of, based upon, relating to, concerning, or in connection with the interpretation or enforcement of the terms of this Settlement. Nothing in the Approval Orders shall

bar any action by any of the Parties to enforce or effectuate the terms of this Settlement Agreement and the Approval Orders.

11.16 The Settlement Class Representatives and Co-Lead Counsel hereby agree and acknowledge that this Section 11 was separately bargained for and constitutes a key, material term of this Settlement Agreement, and shall be reflected in the Approval Orders.

11.17 A Settlement Class Member shall fully indemnify the Released Parties and hold the Released Parties harmless for any breach by the Settlement Class Member of this Settlement Agreement including, without limitation, full indemnification of the Released Parties for all legal costs and disbursements incurred by the Released Parties to enforce this Settlement Agreement.

## **12. PLAINTIFFS' COUNSEL FEE AMOUNT**

12.1 Pursuant to motions brought before the Courts without any opposition from GM, Co-Lead Counsel shall seek the Plaintiffs' Counsel Fee Amount Orders. The monies awarded by the Courts through the Plaintiffs' Counsel Fee Amount Orders shall be the sole compensation paid by GM to all lawyers who represent any Person asserting economic loss claims pertaining to the Actions and the Related Actions. In no event and under no circumstances shall GM pay any amount in counsel fees and expenses greater than the Maximum Plaintiffs' Counsel Fee Amount.

12.2 Co-Lead Counsel agree and covenant that, regardless of any orders, judgments, decisions, awards, or any other basis, they shall not claim, seek, attempt to recover, accept, execute on, or collect on any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.

12.3 The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty (30) days after the Effective Date or the entry of both Plaintiffs' Counsel Fee Amount Orders. If the Required Orders do not become Final, the Effective Date is not achieved or both Plaintiffs' Counsel Fee Amount Orders are not entered, GM shall have no obligation to pay any of the Plaintiffs' Counsel Fee Amount.

12.4 The Plaintiffs' Counsel Fee Amount paid by GM to Co-Lead Counsel shall be allocated by Co-Lead Counsel among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Actions Counsel deem fit. The Settlement Agreement shall not be in any way affected by, nor shall any of the Released Parties have any liability for, any dispute that exists or later arises with respect to the distribution or allocation of the Plaintiffs' Counsel Fee Amount.

12.5 The proceedings related to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount are to be considered separately from the Courts' approval of the Settlement. The Plaintiffs' Counsel Fee Amount Orders are to be separate and distinct from the Approval Orders so that any appeal from the Plaintiffs' Counsel Fee Amount Orders shall not constitute an appeal of the Approval Orders. Any order or proceedings relating to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount, or any appeal from the Plaintiffs' Counsel Fee Amount Orders, or reversal or modification thereof, shall not operate to terminate, cancel, or modify this Settlement Agreement, or affect or delay the entry of the Required Orders.

### **13. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

13.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and, if necessary, approval by the Courts, provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class Members or approval by the Court if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.

- 13.2 GM shall have the right, in its sole discretion, to terminate this Settlement Agreement in the event any of the following conditions occur: (a) one or more of the Required Orders are not entered or do not become Final; (b) the Plaintiffs' Counsel Fee Amount Orders award a Plaintiffs' Counsel Fee Amount in excess of the Maximum Plaintiffs' Counsel Fee Amount; (c) any portion or provision of the Settlement Class Members' Release detailed in Section 11 is held in whole or in part to be invalid, illegal or unenforceable in any respect; (d) more than a confidential number of Settlement Class Members opt out of the Settlement as provided for in Section 10.15; and/or (e) the confidentiality provision stipulated in Section 15.13 of this Settlement Agreement is violated.
- 13.3 This Settlement Agreement shall terminate at the discretion of GM, or the Settlement Class Representatives, through Co-Lead Counsel, if: (a) a court, or any appellate court therefrom, rejects, nullifies, modifies, refuses to enforce, or denies approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline); or (b) a court, or any appellate court therefrom, does not enter or completely affirm, or alters, nullifies, narrows, expands, or refuses to enforce, any portion of the Required Orders (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline). The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other Parties no later than twenty (20) business days after receiving notice of the event prompting the termination.
- 13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13, neither GM nor the Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.
- 13.5 If this Settlement Agreement is terminated pursuant to this Section 13, then:
- 13.5.1 the Parties shall be returned to their positions *status quo ante* with respect to the Actions and Related Actions;

13.5.2 this Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of 5.5, 6.5.3, 7.21, 9.4, 11.16, 11.17, 15.1, 15.2, 15.10 and 15.13, and the definitions and any exhibits and schedules applicable thereto;

13.5.3 no motion or application to certify or authorize an Action or Related Action as a class action on the basis of the Settlement Agreement shall proceed;

13.5.4 any order certifying or authorizing an Action as a class action on the basis of the Settlement Agreement, and any other settlement-related orders or judgments entered in the Actions after the date of execution of this Settlement Agreement, shall be null and void and shall have no force or effect and the Parties shall cooperate with each other to carry out any necessary changes in court files to give effect to this provision;

13.5.5 all of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of GM, the Settlement Class Representatives, and any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

13.5.6 the Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defences, arguments, and motions as to all causes of action and claims that have been or might later be asserted in the Actions or Related Actions, including, without limitation, the argument that the Actions or Related Actions may not be litigated as class actions;

13.5.7 the Settlement Class Representatives, and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions or Related Actions

including, without limitation, any argument concerning class certification/authorization, liability, or damages;

13.5.8 neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;

13.5.9 within ten (10) business days, Actions Counsel shall return, or cause to be returned, to GM any and all amounts paid in respect of the Plaintiffs' Counsel Fee Amount and the Settlement Administrator shall return, or cause to be returned, to GM any unearned or unspent portion of the Settlement Fund Amount or Preliminary Administrative Expenses; and

13.5.10 within ten (10) business days, Actions Counsel and the Settlement Administrator shall destroy all non-public information provided to them by GM in connection with this Settlement and its negotiation and, to the extent Actions Counsel and/or the Settlement Administrator have disclosed any non-public information provided by GM in connection with this Settlement Agreement, Actions Counsel and/or the Settlement Administrator shall recover and destroy such information. Actions Counsel and the Settlement Administrator shall provide GM with a written certification of such destruction.

#### **14. TERMINATION OF ACTIONS AND JURISDICTION OF THE COURTS**

14.1 Co-Lead Counsel and GM agree to cooperate and take all steps as are necessary to give effect to this Settlement Agreement and to bring a final end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions, the Related Actions and in any other pending or future litigation in any way related to the Released Claims. The Parties agree that the conclusion of any litigation as set out in this Section 14 shall not alter, negate or otherwise have any impact or effect on the Settlement Class Members' Release.

- 14.2 The Courts shall retain exclusive jurisdiction over any Discontinuance Order, Amendment Order, Certification Orders, Approval Orders, and Plaintiffs' Counsel Fee Amount Orders issued in the Actions commenced in their respective jurisdictions. The Ontario Superior Court of Justice shall retain ongoing and exclusive jurisdiction to resolve any dispute that may arise in relation to the validity, performance, interpretation, enforcement, enforceability, or termination of this Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section 14, except that any dispute specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.
- 14.3 If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.
- 14.4 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

## **15. OTHER GENERAL TERMS AND CONDITIONS**

- 15.1 This Settlement Agreement makes no factual findings or conclusions of law. It is agreed that, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or



allegations contained in the Actions, the Related Actions or in any pleading or civil, criminal, regulatory or administrative proceeding filed against any Released Party. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense. GM has denied and continues to deny each and all of the claims and contentions alleged in the Actions and the Related Actions, and has denied and continues to deny that GM has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Actions or the Related Actions. GM believes that it has valid and complete defenses to the claims asserted in the Actions and the Related Actions, and denies that GM committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Actions or the Related Actions. GM further believes that no class could be certified/authorized or maintained for litigation or for trial. Nonetheless, GM has concluded that it is desirable that the Actions and the Related Actions be fully and finally settled on the terms and conditions set forth in this Settlement Agreement.

- 15.2 It is agreed that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.
- 15.3 This Settlement Agreement shall be binding upon, and enure to the benefit of GM, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.

- 15.4 The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.
- 15.5 The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Co-Lead Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Members' Release, and the legal effect of this Settlement Agreement and the Settlement Class Members' Release.
- 15.6 Co-Lead Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement, to recommend the approval of this Settlement Agreement to the Courts, and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.
- 15.7 Co-Lead Counsel represent that (a) Co-Lead Counsel are authorized by the plaintiffs in the Actions and the Related Actions to enter into this Settlement Agreement; and (b) Co-Lead Counsel are seeking to protect the interests of the Settlement Class.
- 15.8 Co-Lead Counsel further represent that the Settlement Class Representatives: (a) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (b) are willing, able, and ready to perform all of the duties and obligations of representatives of the Settlement Class; (c) have authorized Co-Lead Counsel to execute this Settlement Agreement on their behalf; and (d) shall remain and serve as representatives of the Settlement Class and Subclasses until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Settlement Class Representatives cannot represent the Settlement Class.

- 15.9 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior, subsequent or concurrent breach of this Settlement Agreement.
- 15.10 If the Effective Date does not occur, or the Settlement is terminated pursuant to Section 13, then this Settlement Agreement, and the certification of the Settlement Class (and Subclasses) provided for herein, shall be vacated and the Actions and Related Actions shall proceed as though the Settlement Class (and Subclasses) had never been certified, without prejudice to any Party's position on the issue of class certification/authorization or any other issue. The Parties shall cooperate with each other to carry out the necessary changes in court files to give effect to this provision.
- 15.11 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.
- 15.12 The Parties reserve the right to agree in writing to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 15.13 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties. Information provided by GM, Co-Lead Counsel, Actions Counsel, any individual Settlement Class Member, or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and confidential and proprietary business information, shall be kept strictly confidential, except as may be expressly

required (i) by law, (ii) by applicable provincial rules of professional responsibility, (iii) order of a court of competent jurisdiction over disclosing party's objection and after at least twenty-one (21) days prior written notice to GM and its counsel and a reasonable opportunity to intervene, (iv) with the express written consent of GM, directly or through its counsel, or (v) as otherwise described in this Settlement Agreement. In no circumstances shall any confidential information be disclosed for any reason without GM's prior written authorization.

- 15.14 The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the motions for the Certification Orders are filed; provided, however, that this Section shall not prevent GM from disclosing such information, prior to that date, to provincial and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, or if required by law or regulation. Nor shall the Parties and their counsel be prevented from disclosing such information to persons or entities (such as experts, courts, legal counsel, and/or administrators) to whom the Parties agree in writing disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.
- 15.15 The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.
- 15.16 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. If requested by the Québec Court, a translation

firm selected by Co-Lead Counsel shall prepare a French translation of this Settlement Agreement after its execution. The Parties agree that such translation is for convenience only. The cost of such translation shall be paid from the Settlement Fund Amount as a Preliminary Administrative Expense or Administrative Expense. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.

- 15.17 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to GM, then to:	Cheryl Woodin or Michael Smith BENNETT JONES LLP 3400 One First Canadian Place 100 King Street West Toronto, ON M5X 1A4 E-mail: woodinc@bennettjones.com smithmc@bennettjones.com
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If to the Settlement Class Representatives or Settlement Class, then to:	Won J. Kim KIM SPENCER McPHEE BARRISTERS P.C. 1203-1200 Bay Street Toronto, ON M5R 2A5 E-mail: wjk@complexlaw.ca
--	---

AND	Joel P. Rochon ROCHON GENOVA LLP 121 Richmond Street West, Suite 900 Toronto, ON M5H 2K1 E-mail: jrochon@rochongenova.com
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- 15.18 The Settlement Class, Settlement Class Representatives and GM shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.

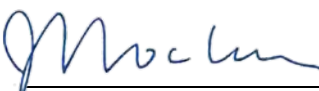
- 15.19 The division of this Settlement Agreement into Sections and the insertion of topic and Section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 15.20 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with legal counsel and the assistance of The Honourable Justice Thomas Cromwell as mediator.
- 15.21 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 15.22 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if necessary, the aid of the Court(s) and/or, by agreement of GM and Co-Lead Counsel.
- 15.23 The Parties represent and warrant that the individuals executing this Settlement Agreement are authorized to enter into this Settlement Agreement on their behalf.
- 15.24 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 15.25 The Parties have executed this Settlement Agreement as of the date on the cover page.

Counsel for GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA  
COMPANY

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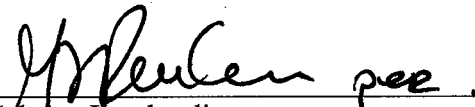
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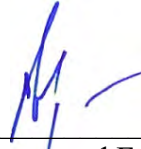
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## Schedule "A" – General List of Subject Vehicles\*

	<b>Make and Model</b>	<b>Years</b>
<b>Delta Ignition Switch Recall</b>  (Transport Canada Recall Numbers 2014-038, 2014-060, 2014-101)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2006-2011
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac Solstice	2006-2010
	Saturn Ion	2003-2007
	Saturn Sky	2007-2009
<b>Key Rotation Recall</b>  (Transport Canada Recall Numbers 2014-246, 2014-273, 2014-284)	Buick Allure	2005-2009
	Buick Lucerne	2006-2011
	Buick Regal	2004
	Cadillac CTS	2003-2014
	Cadillac Deville	2000-2005
	Cadillac DTS	2006-2011
	Cadillac SRX	2004-2006
	Chevrolet Impala	2000-2013
	Chevrolet Monte Carlo	2000-2007
	Chevrolet Malibu	1997-2005
	Oldsmobile Alero	1999-2004
	Oldsmobile Intrigue	1998-2002
	Pontiac Grand Am	1999-2005
	Pontiac Grand Prix	2004-2008
<b>Camaro Knee-Key Recall</b>  (Transport Canada Recall Number 2014-243)	Chevrolet Camaro	2010-2014
<b>Electric Power Steering Recall</b>  (Transport Canada Recall Number 2014-104)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2009-2010
	Chevrolet Malibu	2004-2006 and 2008-2009
	Chevrolet Malibu Maxx	2004-2006
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac G6	2005-2006 and 2008-2009
	Saturn Aura	2008-2009
	Saturn Ion	2004-2007

\*Of the above general list, only those vehicles with a Vehicle Identification Number that is included in the Recall(s) are included as Subject Vehicles.

**NOTICE OF CANADIAN CLASS ACTIONS CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**GM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering  
Economic Settlement Information**

**If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*Pour une notice en Français, visitez [www.GMIgnitionSwitchSettlement.ca/fr](http://www.GMIgnitionSwitchSettlement.ca/fr)*

**The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights.** You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) (collectively, “**GM**”) deny these allegations.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>Who Is Included?</b>	The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to <a href="http://www.GMIgnitionSwitchSettlement.ca">http://www.GMIgnitionSwitchSettlement.ca</a> or call 1-888-995-0291, to see if your GM vehicle is covered by the Settlement.
<b>What Does the Settlement Provide?</b>	If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible settlement class members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These <i>class</i> claims have been discontinued from the class actions, but any such <i>individual</i> claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.
<b>Option 1: Participate in the Settlement – Do nothing for now</b>	If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.
<b>Option 2: Opt out of the Settlement</b>	You may <b>opt-out</b> of the Settlement, in which case you will <u>not</u> be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-out form (see below) must be sent by <b>July 19, 2024</b> . You may not opt out <i>and</i> object.

	<b>IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.</b>	
<b>Option 3: Object to the Settlement</b>	If you do not opt-out and if you do not like the settlement, you may <b>object</b> to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by <b>July 19, 2024</b> .	
<b>Opt-Out Form, Objection Form and their submission</b>	The opt-out form, objection form and further information are available at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> . <u>Non-Québec residents</u> should send their opt-out form or objection form to the Settlement Administrator (see below). <u>If you are a Québec resident</u> , your objection or opt-out form should be sent to the following address:  Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5	
<b>Approval Hearings</b>	The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs' counsel fees and expenses will take place before the Ontario Superior Court of Justice on July 30, 2024 at 10:00 a.m. eastern time (virtual only); and the Superior Court of Québec on July 31, 2024 at 9.30 a.m. eastern time (virtual or in-person). When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at <a href="http://www.GMIgnitionSwitchSettlement.ca">http://www.GMIgnitionSwitchSettlement.ca</a> . You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.  You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.	
<b>YOU MAY SEEK ADDITIONAL INFORMATION</b>		
<b>Contact Class Counsel</b>	Rochon Genova LLP Attention: Jon Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-800-462-3864 or local (416) 363-1867	Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414
<b>Settlement Website</b>	See <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> for the Long-Form Notice, <a href="#">important documents</a> and forms, answers to common questions and other detailed information to help you.	
<b>Settlement Administrator</b>	The Settlement Administrator can be reached by email at <a href="mailto:info@GMIgnitionSwitchSettlement.ca">info@GMIgnitionSwitchSettlement.ca</a> , by telephone at 1-888-995-0291, or by mail at:  GM Ignition Switch Economic Settlement c/o JND Legal Administration PO Box 8111 Vancouver Main Vancouver, BC V6B 4E2	



Ontario Superior Court of Justice / Superior Court of Québec

**NOTICE OF CLASS ACTION CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**If You Are a Current or Former Owner or Lessee of a GM  
Vehicle that was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below),  
your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you that the Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current and former owners or lessees of certain GM vehicles that were recalled in 2014 (the “**Settlement**”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.
- The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment

amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.

- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for **July 30, 2024 at 10:00 a.m.** (Eastern Time) before the Ontario Superior Court of Justice (virtual only) and for **July 31, 2024 at 9:30 a.m.** (Eastern Time) before the Superior Court of Québec (virtual or in-person). These hearings are public. When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• <b><u>The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.</u></b></li> <li>• At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending. If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member will have to complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</li> <li>• Settlement Class Members will be able to complete their claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>.</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<b>Exclude Yourself or “Opt Out”</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at</li> </ul>

	<p>their own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.</p> <ul style="list-style-type: none"> <li>Your request to opt out must be received by <b>July 19, 2024</b>. Non-Québec residents may send their opt out request to the Settlement Administrator. Québec residents should send their opt out request to the following address: <ul style="list-style-type: none"> <li>Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5.</li> </ul> </li> <li>More information about how to opt out of the Settlement can be found in paragraph 8 below and at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>. An opt-out form is available on this website.</li> </ul>
<p><b>Object</b></p>	<ul style="list-style-type: none"> <li>Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by <b>July 19, 2024</b>. Non-Québec residents should send their objections to the Settlement Administrator. Québec residents should send their objections to the following address: <ul style="list-style-type: none"> <li>Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5.</li> </ul> </li> <li>Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be bound by any Court-approved Settlement even though they objected to it.</li> <li>More information about how to object can be found in paragraph 10 below and at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>. An objection form is available on this website.</li> </ul>
<p><b>Go to the Hearing</b></p>	<ul style="list-style-type: none"> <li>To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on <b>July 30, 2024</b> at 10:00 a.m. (Eastern Time) before the Ontario Superior Court of Justice (virtual only) and on <b>July 31, 2024</b> at 9:30 a.m. (Eastern Time) before the Superior Court of Québec (virtual or in-person). When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>.</li> </ul>

	<ul style="list-style-type: none"><li>• The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings if they choose to do so (not required).</li></ul>
<b>Do Nothing</b>	<ul style="list-style-type: none"><li>• Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li><li>• Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.</li></ul>

## WHAT THIS NOTICE CONTAINS

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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes. It also provides information about the Settlement, which pertains to all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the

Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (**VINs**) provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14299	2014-246	

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [www.gmignitionswitchsettlement.ca](http://www.gmignitionswitchsettlement.ca) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [www.GMignitionSwitchSettlement.ca](http://www.GMignitionSwitchSettlement.ca) to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with



multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

**CONDEMN** Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

### **C. THE TERMS OF THE SETTLEMENT AGREEMENT**

#### **4. What am I giving up under the Settlement Agreement?**

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “**Released Parties**”).

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). The Settlement Agreement describes the Released Claims

in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## **5. What might I be receiving under the Settlement Agreement?**

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### **i. The Settlement Fund Amount**

In exchange for Settlement Class Members' release of the Released Claims, there will be a CA\$12 million settlement fund established (the "**Settlement Fund Amount**"). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### **ii. How will payments for eligible claims be allocated?**

A "Net Settlement Amount" shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### **iii. How do I get a payment from the Net Settlement Amount?**

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or by mail to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

### 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“**Co-Lead Counsel**”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP  Attention: Jon Sloan  jsloan@rochongenova.com  Tel: 1-800-462-3864 or local (416) 363-1867  121 Richmond Street West  Suite #900  Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee  mbm@complexlaw.ca  Tel: (416) 596-1414  1203-1200 Bay Street  Toronto, ON M5R 2A5</p>
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### 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs’ Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs’ Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor in Québec (see below) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending an opt out form by mail, courier, or e-mail so that it is received on or before **July 19, 2024**.

The opt out form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and an attestation that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s); and
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s).

An opt-out form is available on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

For **non-Québec residents**, the opt out form should be sent to the Settlement Administrator through email to [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca), or by mail or courier to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2.

**If you are a Québec resident, your opt out form should be sent to the following address:**

Clerk of the Superior Court of Québec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

## **9. What happens if I opt out/exclude myself from the Settlement Class?**

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## **F. OBJECTING TO THE SETTLEMENT**

### **10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?**

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. The Québec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada.

To object, **non-Québec residents** must deliver an objection form to the Settlement Administrator by email to [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca) or by courier or mail to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2 so that it is received on or before July 19, 2024.

**If you are a Québec resident, your objection form should be sent by July 19, 2024 to the following address:**

Clerk of the Superior Court of Québec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

An objection form is available on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

## G. INTERVENOR STATUS

### 11. Can I intervene as a party in the file?

Note that Québec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Québec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Québec Settlement Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Québec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.

## H. THE APPROVAL HEARINGS IN COURT

### 12. When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on **July 30, 2024 at 10:00 a.m.** (Eastern Time) (virtual only); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Québec H2Y 1B6 on **July 31, 2024 at 9:30 a.m.** (Eastern Time) (virtual or in-person).

When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at [www.GMIgnitionSwitchSettlement](http://www.GMIgnitionSwitchSettlement). Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or call 1-888-995-0291 for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Québec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval

decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final and when the claims period will start. Please check the Settlement Website [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

**13. Do I have to go to the hearings?**

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to attend the hearings at your own expense.

If you object by sending an objection form, you do not have to come to court to talk about it. So long as you sent your objection form on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. May I speak at the hearings?**

Yes. If you submitted a proper objection form, you or your lawyer may, at your own expense, attend the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

**I. IF YOU DO NOTHING**

**15. What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.



## J. GETTING MORE INFORMATION

### 16. How do I get more information about the Settlement?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>		
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> , where you will find answers to common questions and other detailed information to help you.	
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call 1-888-995-0291.	
<b>CONTACT CLASS COUNSEL</b>	Rochon Genova LLP  Attention: Jon Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-800-462-3864 or local (416) 363-1867  121 Richmond Street West Suite #900 Toronto, ON M5H 2K1	Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414  1203-1200 Bay Street Toronto, ON M5R 2A5



**Schedule “D” - Approval Notice**

**LEGAL NOTICE OF COURT APPROVAL OF GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY AND ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

A nationwide class settlement of economic loss claims by persons who owned or leased a GM vehicle subject to one of the following recalls on or before the recall announcement date has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec:

	<b>Make, Model and Model Year*</b>	<b>GM Recall Number</b>	<b>Transport Canada Recall Number</b>	<b>Recall Announcement Date</b>
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue	14299	2014-246	
	1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement. Visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to see if your vehicle qualifies.

## BENEFITS FOR SETTLEMENT CLASS MEMBERS

A CA\$12-million settlement fund has been established, which will be distributed to Settlement Class Members as follows:

- (i) members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses; and
- (ii) members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses.

An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments.

Following the submission of claims and deduction of administrative expenses, taxes and any honoraria payments from the settlement fund, the individual payments to be made to members of each subclass shall be published at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

The Courts [**have approved**] [**OR will in the future approve**] legal fees to plaintiffs' counsel (up to a maximum of \$4,397,500.00). Those amounts will be paid separately and will not reduce the settlement benefits.

### HOW DO I MAKE A CLAIM?

- To receive money from this Settlement, you must submit a completed Claim Form by [**date**].
- You may submit a Claim Form online through [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).
- Alternatively, you may complete a paper Claim Form available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) and submit your Claim Form by mail or courier to the address indicated on the Claim Form.

**TO OBTAIN MORE INFORMATION, VISIT  
WWW.GMIGNITIONSWITCHSETTLEMENT.CA OR CALL 1-888-995-0291.**

**YOU MAY ALSO CONTACT LAWYERS FOR THE SETTLEMENT CLASS AT:**

<p>Rochon Genova LLP</p> <p>Attention: Jon Sloan  <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a>            Tel: 1-800-462-3864 or local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee  <a href="mailto:mbm@complexlaw">mbm@complexlaw</a>            Tel: (416) 596-1414</p>
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## Schedule “E” – Claim Form

**GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

**CLAIM FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

**INSTRUCTIONS FOR SUBMITTING A CLAIM FORM**

Please review the following instructions before proceeding.

**ELIGIBILITY:**

You are a Settlement Class Member and eligible to submit this Claim Form **only if** you are not an Excluded Person (see Section I below), and you:

1. Currently own or lease a **Subject Vehicle** and (a) you owned or leased it **on or before** the **Recall Announcement Date** and (b) your vehicle has either already had the applicable Recall repair(s) performed, or you will now have the Recall repair done (for free) by an authorized GM dealer. The Recall repair(s) must occur on or before the **Final Recall Repair Date**, which is [● date]; **or**
2. Formerly owned or leased a **Subject Vehicle on or before** the **Recall Announcement Date**. Certain former owners or lessees of a Subject Vehicle may need to provide documentation (or, if you don't have documentation, make a signed solemn declaration as described below) showing that you are no longer in the possession, custody or control of the Subject Vehicle.

\*See below for how to find out if you own(ed) or lease(d) a **Subject Vehicle** and, if so, the **Recall Announcement Date**, applicable **Recall(s)** and status of the Recall repair(s).

**WHAT TO DO BEFORE COMPLETING THIS CLAIM FORM:**

1. Locate the vehicle identification number (“VIN”) for the GM vehicle that you own(ed) or lease(d).

2. Enter your VIN on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to find out if the GM vehicle that you own(ed) or lease(d) is a **Subject Vehicle**, and if so, the applicable **Recall(s)**, **Recall Announcement Date(s)**, and whether or not the Recall repair(s) have already been performed. (GM data for the VIN shall be dispositive as to whether the vehicle is a Subject Vehicle.)
3. Ensure that you are **not** an Excluded Person (see Section I below).
4. Ensure that you owned or leased your Subject Vehicle on or before the **Recall Announcement Date**.

**COMPLETING & FILING A CLAIM FORM:**

1. Complete Sections I to IV below.
2. **Your completed Claim Form must be submitted electronically and/or postmarked on or before the Claims Deadline, which is [● date].**
3. You can submit your Claim Form as indicated below:
  - a. Electronically at: [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If you file online, certain information may be filled in for your vehicle, which you will need to confirm. You are encouraged to submit your Claim Form online for easy verification and processing.
  - b. By email to: [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca), or
  - c. By mail to:

GM Ignition Switch Economic Settlement  
 c/o JND Legal Administration  
 PO Box 8111  
 Vancouver Main  
 Vancouver, BC V6B 4E2

**ONE CLAIM FORM PER SUBJECT VEHICLE:**

You must submit a separate Claim Form for each Subject Vehicle. If you own(ed) or lease(d) more than one Subject Vehicle on or before the applicable Recall Announcement Date(s) and you are not an Excluded Person, submit a separate Claim Form for each Subject Vehicle to be eligible for settlement payments for each Subject Vehicle.

**RECALL REPAIRS:**

If the Recall repair(s) have not been performed on your Subject Vehicle, and you are the current owner or lessee, you will need to bring your Subject Vehicle to an authorized GM dealer to

obtain the Recall repair(s) free of charge on or before the Final Recall Repair Date in order to be eligible for a settlement payment.

**SUPPORTING DOCUMENTATION MAY BE REQUESTED:**

Please be advised that the Settlement Administrator is authorized to require supporting/supplemental documentation from any person submitting a Claim Form. In order to ensure against fraud or to confirm your eligibility, the Settlement Administrator may request documentation or additional information from you, including requests for:

- a. proof you owned or leased the Subject Vehicle on or before the Recall Announcement date, such as the vehicle ownership, purchase or lease papers, or a solemn declaration with further details supporting your ownership or lease of the Subject Vehicle on or before the Recall Announcement Date;
- b. information confirming you are not an Excluded Person; and/or
- c. if the Recall repair(s) are not yet performed on your Subject Vehicle, confirmation you obtained the repair(s) from an authorized GM dealer.

If you receive an email or mailed notice from the Settlement Administrator seeking additional information, you will need to comply in order to be eligible for a settlement payment. You will be assigned a claim number by the Settlement Administrator once you submit your Claim Form. Include your claim number when submitting any requested supporting documentation.

**SETTLEMENT PAYMENT INFORMATION:**

The settlement payment amount for each eligible Claim will depend upon the number of eligible Claims submitted, which Recalls apply to your Subject Vehicle and to the Subject Vehicles for all other eligible Claims, as well as the Administrative Expenses (such as for settlement administration) as detailed in Sections 4 and 5 of the Settlement Agreement.

**SECTION I: Excluded Persons**

Certain individuals and entities are prohibited from being Settlement Class Members and receiving payment under this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;

- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\*The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

\*\*The determination of the Settlement Administrator as to whether you are an Excluded Person is dispositive; there is no appeal to a court. The Settlement Administrator will make this determination based upon data provided by the Parties, as well as any additional information/documentation that the Settlement Administrator may request from you.

**I CONFIRM THIS CLAIM IS NOT ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS**

**SECTION II: Information on Claimant and Subject Vehicle**

Owner/Lessee Last Name:

First Name:

Middle Initial:




**OR** Full Business Name of Owner/Lessee:

Vehicle Identification Number (VIN):

Make, Model, and Model Year of Vehicle:

Telephone Number:	Email Address:	
<input type="text"/>	<input type="text"/>	
Your Current Address (Number/Street/P.O. Box No.):		
<input type="text"/>		
City:	Province:	Postal Code:
<input type="text"/>	<input type="text"/>	<input type="text"/>
If you lived/operated at a different address when you owned or leased the Subject Vehicle than the current address provided above, please provide your Address at the time you owned or leased the Subject Vehicle for which you are submitting a Claim (Number/Street/P.O. Box No.):		
<input type="text"/>		
City:	Province:	Postal Code:
<input type="text"/>	<input type="text"/>	<input type="text"/>

**SECTION III: Check the Box below that applies to you and add the applicable date(s)**

**Check ONE Box below that applies to you and this claim and complete the requested fields.**

<input type="checkbox"/>	<p><b>I am the CURRENT owner or lessee of a Subject Vehicle and I purchased or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ____ / ____ / ____ (MM/DD/YYYY)</p>
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<input type="checkbox"/>	<p><b>I am a FORMER owner or lessee of a Subject Vehicle, and I owned or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ____/____/____ (MM/DD/YYYY)</p> <p>I sold/ended the lease of the Subject Vehicle on: ____/____/____ (MM/DD/YYYY)</p>
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#### SECTION IV: Attestation

By signing below I declare and affirm that the information in this court-ordered Claim Form is true and correct, that I can make this Claim, and have legal authority to submit this Claim Form. I understand that my Claim may be subject to audit, verification and review by the Settlement Administrator, the Ontario Superior Court of Justice and/or the Superior Court of Québec, and that I may be requested to provide additional information to support my claim. **I understand that submitting incorrect information may subject me to criminal and/or civil prosecution for fraud.**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

If you are signing on behalf of a Claimant, indicate your authority to sign, e.g., estate representative, power of attorney, legal guardian. If you are signing on behalf of an entity, indicate your job title.

\_\_\_\_\_

**Claim Forms must be electronically submitted or postmarked on or before the Claims Deadline, which is [● date].**  
**Questions? Visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or call, toll-free, 1-888-995-0291.**



## **If You Owned or Leased a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement**

Seattle/May 20, 2024/PR Newswire

A proposed class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been submitted for approval to the Ontario Superior Court of Justice and the Superior Court of Quebec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering. The plaintiffs claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC ("New GM") and General Motors of Canada Company (formerly General Motors of Canada Limited) ("GM Canada") deny these allegations. The plaintiffs, New GM and GM Canada have agreed to a settlement to avoid the risk and cost of further litigation.

The proposed settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM's announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the settlement class. Go to [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca), or call 1-888-995-0291, to see if your GM vehicle is covered by the settlement.

If approved, the settlement fund will be CA\$12 million. Payment amounts to eligible settlement class members will vary depending on which recall applied to their vehicle, the amount of administrative expenses, taxes and any honoraria payments, and the number of settlement class members who file claims.

For details about the settlement, including the money that may be available to settlement class members, and your eligibility to file a claim and receive a payment, review the Long Form Notice and the Settlement Agreement available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If the settlement is approved, you will be required to submit a claim online or by mail on or before the deadline which will be posted on the website.

Settlement class members have other options too. The settlement will not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. However, if you want to keep your right to sue New GM, GM Canada and certain other released parties about the economic loss claims, you must exclude yourself from the class. If you exclude yourself, you cannot receive benefits provided by the settlement. Your exclusion request must be sent to the Settlement Administrator and postmarked on or before **July 19, 2024**. **IF YOU DO NOT EXCLUDE YOURSELF AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.** Get advice from your lawyer about deadlines for individual lawsuits.

If you stay in the settlement class, you may object to the settlement - that is, tell the Ontario

Superior Court of Justice or the Superior Court of Quebec why you don't like the settlement. Your objection must be postmarked or emailed on or before **July 19, 2024**. Information about how to exclude yourself or object to the settlement is available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

The Ontario Superior Court of Justice will hold a hearing on July 30, 2024 at 10:00 a.m. (Eastern Time) (virtual only), and the Superior Court of Quebec will hold a hearing July 31, 2024 at 9:30 a.m. (Eastern Time) (virtual or in-person), to consider whether to approve the settlement. You may appear at the hearings either yourself or through a lawyer hired by you, but you do not have to do so. Links to attend the hearings virtually will be posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) closer to the hearing dates.

The legal fees to be paid to plaintiffs' counsel may also be approved at the hearings to approve the settlement. New GM and GM Canada have agreed to pay the legal fees and expenses of plaintiffs' counsel up to a maximum amount of CA\$4,397,500.00 to be paid separately, that is, not to be deducted from the settlement fund, and which must be approved by the Courts.

For more information, call 888-995-0291 or visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may also contact lawyers for the Settlement Class at:

Rochon Genova LLP

Attention: Jon Sloan

[jsloan@rochongenova.com](mailto:jsloan@rochongenova.com)

Tel: 1-800-462-3864 or local (416) 363-1867

121 Richmond Street West

Suite 900

Toronto, ON M5H 2K1

Kim Spencer McPhee Barristers P.C.

Attention: Megan B. McPhee

[mbm@complexlaw](mailto:mbm@complexlaw)

Tel: (416) 596-1414

1203-1200 Bay Street

Toronto, ON M5R 2A5

## Schedule “G” - Reminder Press Release

**Eligible Owners or Lessees of GM Vehicles that were Subject to Certain 2014 Recalls, You Must File Your Settlement Claim before [date], 202[year].** A class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering.

The plaintiffs claimed that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) denied these allegations. The plaintiffs, New GM and GM Canada agreed to a settlement to avoid the risk and cost of further litigation. The settlement does not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage.

The settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the class.

Go to [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to see if your GM vehicle is covered by the settlement and if you are eligible to file a claim. All claims must be received electronically or by mail on or before [date], 202[year].

The settlement fund is CA\$12 million. Payment amounts to eligible settlement class members depend on which recall applied to their vehicle, the amount of administration expenses, taxes, and any honoraria payments, and the number of eligible settlement class members who file claims.

Learn more by calling 1-888-995-0291 or visiting [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

You may also contact lawyers for the Settlement Class at:

Rochon Genova LLP  
Attention: Jon Sloan  
[jsloan@rochongenova.com](mailto:jsloan@rochongenova.com)  
Tel: 1-800-462-3864 or local (416) 363-1867  
121 Richmond Street West  
Suite 900  
Toronto, ON M5H 2K1

Kim Spencer McPhee Barristers P.C.

Attention: Megan B. McPhee  
[mbm@complexlaw](mailto:mbm@complexlaw)  
Tel: (416) 596-1414

1203-1200 Bay Street  
Toronto, ON M5R 2A5

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al., Ontario Superior Court of Justice Action No. CV-14-502023-00CP</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000687-141</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000729-158</i>

**OBJECTION FORM**

ONLY SUBMIT THIS FORM IF YOU WISH TO OBJECT TO THE PROPOSED SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO OBJECT** to the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

**1. OBJECTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an objection.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are objecting to the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;
- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

<input type="checkbox"/>	<b>I CONFIRM THIS OBJECTION IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b>
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## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

## 3. I WISH TO OBJECT

Provide in the box below your objection to the proposed settlement. You can also provide your objection in an attachment.

## 4. SETTLEMENT APPROVAL HEARINGS

The Superior Court of Québec will hold a settlement approval hearing in person at the Montreal Courthouse at 1 Notre-Dame Street East, Montreal and by video conference on July 31, 2024.				
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
The Ontario Superior Court of Justice will hold a settlement approval hearing by video conference from 130 Queen Street West, Toronto on July 30, 2024.				
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

If you will be appearing through a lawyer, please provide the following personal identification information for your lawyer. If more than one lawyer represents you, please provide the following information for other lawyers in an attachment.

Lawyer's Last Name:		Lawyer's First Name:	
Lawyer's Mailing Address:			Suite Number:
City:	Province/State:	Postal Code/Zip Code:	Country:
Lawyer's Phone Number:	Lawyer's Email Address:		Lawyer's Law Firm Name:

**5. SIGNATURE**

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY MM DD

**6. SUBMISSION**

If you wish to object to the proposed settlement, your completed objection form MUST be received on or before July 19, 2024.

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Québec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your completed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">GM Ignition Switch Economic Settlement c/o JND Legal Administration PO Box 8111 Vancouver Main Vancouver, BC V6B 4E2 info@GMIgnitionSwitchSettlement.ca</p>
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<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al., Ontario Superior Court of Justice Action No. CV-14-502023-00CP</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000687-141</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000729-158</i>

**OPT-OUT FORM**

ONLY SUBMIT THIS FORM IF YOU **DO NOT** WANT TO PARTICIPATE IN AND CLAIM BENEFITS UNDER THE SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO EXCLUDE YOURSELF** from the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

**1. REQUESTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an opt-out request.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are opting out of the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

- Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:
- authorized GM dealers;
  - daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
  - governmental or quasi-governmental bodies;
  - the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
  - Actions Counsel\* as well as members of their staff and immediate family;
  - all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
  - all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

<input type="checkbox"/>	<p><b>I CONFIRM THIS OPT-OUT REQUEST IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b></p>
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## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

## 3. PROOF OF OWNERSHIP

For each of the vehicles identified in item 3, **attach a copy of your proof of ownership**. If you own or previously owned the vehicle, please provide a copy of the vehicle's registration certificate or bill of sale. If you lease or previously leased the vehicle, please provide a copy of the lease agreement relating to the vehicle.

## 4. I WISH TO OPT OUT

Check the box below to confirm your intention to opt out of the proposed settlement.

I wish to be excluded from the General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement and am opting out.

**I OPT OUT**

## 5. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY / MM / DD

## 6. SUBMISSION

If you wish to opt-out of the proposed settlement, your completed opt-out form MUST be received on or before July 19, 2024.

**IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC**, your completed objection form should be sent by mail or courier to the following address:

Clerk of the Superior Court of Québec  
Montréal Court house  
Re: Michael Gagnon v. General Motors of Canada et. al.  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

**IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE**, your completed objection form may be sent by mail, courier or email to the following address:

GM Ignition Switch Economic Settlement  
c/o JND Legal Administration  
PO Box 8111  
Vancouver Main  
Vancouver, BC V6B 4E2  
info@GMIgnitionSwitchSettlement.ca

# TAB 2

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF STACEY GREEN  
(Sworn July 24, 2024)**

I, Stacey Green, of the City of Windsor, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Ontario/National Settlement Class Representative in this action, and as such have knowledge of the matters to which I depose herein. Where I have been informed of the facts to which I depose, I have stated the source of my information and belief, and I confirm that I believe such facts to be true.

2. I swear this affidavit in support of a motion for approval of the proposed Amended Settlement Agreement. Capitalized terms, unless otherwise defined, have the meanings

provided for in the Settlement Agreement.

### **My Personal Circumstances**

3. I live in Windsor, and work full-time as a medical administrator.

4. Driving is central to my lives, and I rely on my car for many of my regular activities. I drive to and from work, and for regular errands. I used to rely on my car to drive my elderly father, who lived with me, as well as my aunt, who lived independently but had significantly impaired mobility. Occasionally, I used to drive my young great nieces and nephews around the city.

5. Around November 2007, I was looking into buying a new car. I researched several different models from different manufacturers, including Honda and Ford vehicles. Ultimately, I purchased a 2007 Saturn Ion from Saturn Saab of Windsor. I decided on this model because I had previously owned an earlier Saturn model and had been satisfied with its performance and safety.

### **The Recall**

6. In early March 2014, I learned from the news that certain GM vehicles were being recalled due to a defect with their ignition switches. I visited Transport Canada's website on March 10, 2014 and found Recall # 2014060, which encompassed my 2007 Saturn Ion. The Recall provided that the ignition switch could allow the switch to move out of the "run" position, which could also interfere with power steering, braking, and airbag deployment.

7. This was the first time I had heard about the Recall or any possible issues with my Saturn's ignition: I was not mailed a recall notice, and was not advised at any point, either by my dealership or Saturn/GMC directly, about any issues with the ignition switch.

8. I contacted my dealership, Gus Revenberg Chevrolet Buick GMC Ltd. In Windsor, Ontario, but they did not have further details and did not know when a replacement part would be available.

9. Around late March, I learned that the replacement parts had arrived at my dealership. I delivered my car for repairs on March 29, 2014 and picked it up on April 22, 2014. In the interim, I rented a car.

10. Following the repair, however, I learned that GM's first batch of replacement ignition switches were defective. I had to speak to my dealership and a GM representative to find out that my vehicle had in fact received a working replacement switch.

#### **Retaining Class Counsel**

11. Around March 2014, I retained and instructed Sutts, Strosberg LLP and McKenzie Lake Lawyers LLP to commence a proceeding against the defendants on my behalf, along with 16 other proposed representative plaintiffs in respect of certain Subject Vehicles covered by the Delta Ignition Switch Recall (*Green et al. v. General Motors of Canada Ltd. et al.*, Court File No. CV-14-20608-CP, the "Green Action").

12. I understand that, also around early 2014, numerous other plaintiffs commenced similar proposed class actions regarding various Subject Vehicles. Beginning in 2015, my lawyers at Sutts, Strosberg LLP and McKenzie Lake Lawyers LLP began discussions with lawyers for those other plaintiffs and lawyers for the defendants to determine whether and how to consolidate the various proposed class actions and which law firms would have carriage. The parties agreed that the proposed class actions would be consolidated into a single proposed class action.

13. On or around October 4, 2016, the parties brought a motion on consent seeking, among other things, consolidation of various actions. On October 10, 2016, the Honourable Justice Perell granted the motion and ordered the various actions consolidated into the within action, appointing me as a proposed representative plaintiff together with the Estate of Nicholas Baker, Daniel Baker, Judy Hanson and Wendy Scobie. His Honour also appointed Rochon Genova LLP (“RG”) and Kim Orr Barristers P.C. (now Kim Spencer McPhee Barristers P.C. or “KSM”) as Co-Lead Counsel for the consolidated proposed class action, and Sutts, Strosberg LLP, McKenzie Lake Lawyers LLP, Langevin Morris Smith LLP, and Merchant Law Group LLP as class counsel.

14. Co-Lead Counsel and class counsel agreed to proceed on a contingency fee basis, meaning they would only recover their fees if the case were successful at trial or in a settlement. I also understood that it was very difficult to predict the likelihood of success and that it was possible that the action might not ultimately succeed at all, in which case the lawyers advancing the case would bear that expenses of the litigation.

15. Based on the issues in the litigation, we expected it would be necessary to retain multiple experts at significant cost. In 2017, I instructed Co-Lead Counsel to apply for funding from the Class Proceedings Fund (“CPF”). I understood that CPF funding would ensure sufficient resources to retain the experts needed to effectively advance the action, and that I would be indemnified against any adverse costs awards if the action did not succeed.

16. My lawyer Mr. Podolny also advised me that accepting CPF funding would require that funding to be paid back from any settlement or monetary award at the end of the action, and that in exchange for this advance funding and for indemnifying me against a potential

adverse costs award, the CPF would be entitled to a 10% levy on any net compensation achieved for the class. I understand that this 10% levy will not be applied to any compensation achieved for Quebec Class Members.

17. On or around January 18, 2018, Mr. Podolny advised me that CPF funding for this action was granted. I understand that approval of repayment of such funding to the CPF is part of the relief sought on this motion.

18. On or around June 25, 2020, I entered a subsequent retainer agreement with RG and KSM.

19. Following receipt of CPF funding, I understand that the parties continued to prosecute this litigation. As part of this process, I swore an affidavit for an anticipated contested certification motion on June 25, 2020. My counsel has kept me apprised of the steps taken in this litigation, including the extensive settlement negotiations.

### **The Settlement Agreement**

20. I have reviewed the Settlement Agreement with Counsel and believe it is fair, reasonable, and in the best interests of the Class, particularly in light of the significant litigation risk related to claims of economic loss.

21. The Settlement Agreement, if approved, will require the defendants to pay a Settlement Fund Amount of CA\$12 million. After deduction of Administrative Expenses and taxes on interest earned, the Settlement Fund Amount will be distributed among Eligible Claimants based on a prescribed formula.

22. Because the Settlement Fund Amount is fixed, I understand that the specific

compensation amounts for Eligible Claimants will not be known until after the Claims Program is over. However, I also understand that the Settlement Agreement provides that Plaintiffs' Counsel Fee will be paid separately, and that no amount of the Settlement Fund Amount will go toward Plaintiffs' counsel fees.

23. The Settlement Agreement provides that Settlement Class Members may submit Claim Forms to the Settlement Administrator through the Settlement Website, by email, or by physical mail. I believe the Claim Forms are straightforward and easy to understand, and that the claims submission process is user-friendly for Settlement Class Members.

24. I understand that the Settlement Agreement will not compensate people who sustained injury or death while operating or being transported in a Subject Vehicle. I am advised by Mr. Mann that those claims have been settled separately, outside of this class action.

25. I also understand that the Settlement Agreement does not release any individual claims arising out of such injuries or deaths, and that Settlement Class Members may participate in the Settlement without restricting their rights to bring individual claims arising out of personal injuries or wrongful deaths (or injuries to/wrongful deaths of family members and dependents), or actual physical property damage. I therefore believe that the Settlement Agreement does not prejudice any members of the Injury Class or the Family Class as those terms are defined in the Second Fresh As Amended Statement of Claim.

26. I am also advised by Mr. Mann, and I believe, that if the Settlement Agreement is not approved, I and the other class members will be facing many years of litigation and substantial risk before our individual claims might be determined, including a contested



motion to certify this action as a class proceeding, discoveries and a common issues trial and any appeals. I am also advised, and I believe that the cost of pursuing this action to that stage would be great and that there is a very real risk that the litigation ultimately may not succeed.

27. I therefore consent to the Settlement as set out in the Settlement Agreement, and request that the Settlement Agreement be approved by this Court.

### **Fee Approval**

28. I understand that the Settlement Agreement contemplates that Plaintiffs' counsel's fees, disbursements and associated taxes in a maximum amount of CA\$4,397,500 will be paid out of a fund separate and apart from the Settlement Fund Amount, and this amount was reached after the amount of the Settlement Fund was agreed. As such, the amount GM has agreed to pay for Plaintiffs' Counsel's fees, disbursements, and applicable taxes will not affect the Settlement Fund Amount available to pay Eligible Claims.

29. At the time that I commenced this action, I would not have been able to afford a lawyer to prosecute my case individually or to cover any associated disbursements. For this reason, I chose to proceed on a contingency fee basis.

30. I am advised by Mr. Mann and I believe that Plaintiffs' counsel have incurred over \$2.7 million in time expended on this litigation and have incurred \$666,043.17 in disbursements in advancing this action and reaching the settlement set out in the Settlement Agreement. I would never have been able to afford to pay lawyers to advance the claim for me in the absence of my contingency fee retainers.

31. I understand that Plaintiffs' counsel negotiated their requested fee of \$4,397,500

separately from, and are not seeking any percentage of, the Settlement Fund Amount. I believe this arrangement provides an added benefit to Settlement Class Members because it means that counsel fees will not affect the amount available to satisfy Eligible Claims.

32. I am pleased with the results Plaintiffs’ counsel have achieved in this litigation, particularly that the Defendants are being held accountable for the Defects. Based on the time and expenses incurred and the terms of my retainer, I believe their fee request is fair and reasonable. I have no hesitation in recommending that this Court approve the requested Plaintiffs’ Counsels Fee Amount.

**SWORN REMOTELY BY** Stacey )  
Green, of the City of Windsor, in the )  
Province of Ontario, **BEFORE ME** )  
at the City of Toronto in the Province )  
of Ontario this 24th day of July, 2024, )  
in accordance with O. Reg. 431/20, )  
Administering an Oath of Declaration )  
Remotely. )

  
Pritpal Mann (Jul 24, 2024 10:34 EDT)

*A Commissioner for Taking  
Affidavits*

  
Stacey Green (Jul 24, 2024 10:30 EDT)

Stacey Green

OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

<b>ONTARIO SUPERIOR COURT OF JUSTICE</b>  PROCEEDING COMMENCED AT TORONTO	
<b>AFFIDAVIT OF STACEY GREEN</b> (sworn July 24, 2024)	
<b>ROCHON GENOVA LLP</b> 900-121 Richmond Street West Toronto, ON M5H 2K1  Joel P. Rochon (LSO #: 28222Q) Pritpal Mann (LSO #: 87637E) Tel: 416.363.1867 / Fax: 416.363.0263  <i>Co-Lead Counsel for the Plaintiffs</i>	<b>KIM SPENCER MCPHEE BARRISTERS P.C.</b> 1200 Bay Street, Suite 1203 Toronto, ON M5R 2A5  Won J. Kim (LSO #: 32918H) Megan B. McPhee (LSO #: 48351G) Tel: 416.596.1414 / Fax: 416.598.0601
<b>MCKENZIE LAKE LAWYERS LLP</b> 140 Fullarton Street, Suite 1800 London ON N6A 5P2  Michael Peerless (LSO #34127P) Sabrina Lombardi (LSO #52116R) Tel: 519.672.5666 / Fax: 519.672.2674  <b>MERCHANT LAW GROUP LLP</b> 240 Richmond Street West Toronto, ON M5V 1V6 Evatt F.A. Merchant (LSO #51811C) Tel: 416.828.7777 / Fax: 647.478.1967	<b>STROSBERG SASSO SUTTS LLP</b> 1561 - Ouellette Avenue Windsor ON N8X 1K5  Harvey T. Strosberg, Q.C. (LSO #: 126400) William V. Sasso (LSO #: 12134I) Jacqueline A. Horvat (LSO #: 46491T) S. Alex Constantin (LSO # :63097W) Tel: 519.258.9527 / Fax: 519.561.6203  <i>Lawyers for the Plaintiffs</i>

**TAB 3**

Court File No.: CV-14-502023-00CP

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

EDWARD OBERSKI, AMANDA OBERSKI, and STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF VINCENT GENOVA  
(Sworn July 24, 2024)**

**(Motion for Settlement Approval and Approval of Plaintiff Counsel Fees,  
Returnable July 30, 2024)**

I, Vincent Genova, of the City of Toronto, in the Province of Ontario, Canada,

**MAKE OATH AND SAY AS FOLLOWS:**

1. I am a lawyer at the law firm of Rochon Genova LLP (“RG”), which I founded together with Joel Rochon in 1999. RG and Kim Spencer McPhee Barristers P.C. (“KSM”) are Co-Lead Counsel for the Plaintiffs in the within actions. As such, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not have such personal knowledge, I have identified the source of my information and confirm I believe that information to be true. While I am not formally part of the Co-Lead Counsel team for the Plaintiffs, I have been kept closely apprised of these proceedings since they were

commenced beginning in March 2014. In addition to Co-Lead Counsel, the Plaintiffs' Counsel team includes Langevin Morris Smith LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, and Merchant Law Group.

2. I swear this affidavit in support of the motion for settlement approval and approval of plaintiff counsel fees in the Québec Actions and the Ontario Action.

### **I. DEFINED TERMS**

3. All capitalized defined terms used in this affidavit have the meanings ascribed to them in Amended Settlement Agreement, except to the extent that they are modified herein.

### **II. NATURE OF THE MOTION**

4. On November 1, 2023, Edward Oberski, Amanda Oberski, Stacey Green, and Michael Gagnon (the "Plaintiffs"), and other individuals and entities, entered into a Settlement Agreement with General Motors LLC ("New GM") and General Motors of Canada Company ("GM Canada") (collectively "GM"). Attached hereto as **Exhibit "A"** is a copy of the Settlement Agreement dated November 1, 2023.

5. Amendments to the Settlement Agreement were made by the Parties to address comments made by Justice Nollet of the Superior Court of Québec during the Motion for Authorization for Settlement Purposes. Attached hereto as **Exhibit "B"** is a copy of the Amended Settlement Agreement dated July 23, 2024 which will be referred to hereinafter as the "Settlement Agreement".

6. These motions in the Québec and Ontario Courts are for approval of the Settlement, as well as the Maximum Plaintiffs' Counsel Fee Amount of \$4,397,500.00 under the

Settlement Agreement. The Plaintiffs' Counsel Fee Amount is payable by the Defendants over and above the Settlement Fund Amount.

### III. OVERVIEW

7. This proceeding arises from defects in ignition switches and electric power steering (collectively referred to herein as the "Defects") in the Subject Vehicles designed and manufactured by Defendants from roughly 1997 to 2014. The Defects were subject to the following recalls (collectively referred to as the "Recalls"): Delta Ignition Switch Recall; Key Rotation Recall; Camaro Knee-Key Recall; and Electric Power Steering Recall. A table setting out the Defects and the corresponding Recalls and Subject Vehicles is attached as **Exhibit "C"**.

8. The Plaintiffs allege that the Defects made the Subject Vehicles inherently dangerous, and that Settlement Class Members suffered economic harm for the diminution in value and/or overpayment for the Subject Vehicles they purchased or leased, and for the expenses, inconvenience, loss of time, and loss of income associated with having the Defects repaired. The Plaintiffs also allege that the Defendants were aware of the Defects, but failed to inform regulatory authorities and Class Members for years before the Recalls began in February 2014.

9. The Plaintiffs further allege that the Defects have caused serious and life-threatening injury, and in some cases death. As described in greater detail below, the personal injury claims arising out of these allegations were settled separately from, and do not form part of, the Settlement Agreement. The Second Fresh as Amended Statement of Claim in this action is attached as **Exhibit "D"**.

10. The Defendants deny the Plaintiffs' allegations and do not admit any liability.
11. Since commencing this action, Co-Lead Counsel have actively sought to advance class members' claims, including by negotiating a carriage agreement with other counsel in the Related Actions; entering a cooperation agreement with the former defendant Delphi Automotive ("Delphi"); meeting in person with Delphi executives in Detroit, Michigan; applying for and receiving funding from the Class Proceedings Fund; and preparing voluminous certification materials for an anticipated contested certification motion.
12. In addition to these efforts, the parties engaged in multiple rounds of formal and informal negotiations on a parallel track in an effort to resolve the action. These negotiations culminated in an extended mediation process before The Honourable Justice Thomas Cromwell, where the final proposed settlement terms and term sheet were reached. The settlement terms have been memorialized in the Settlement Agreement.
13. Although the Parties continued to maintain their respective divergent positions with respect to the allegations and the potential success of the litigation, they also recognize the value of the negotiated resolution, particularly in light of:
- a) recent Canadian jurisprudence limiting recovery for pure economic loss claims for dangerous defective products to the costs of ***mitigating or averting that danger***. Here, where the Defendants had issued Recalls, albeit late in coming, to address the Defects, the jurisprudence on claims of pure economic loss increased the Plaintiffs' litigation risks. For instance, in *Maple Leaf Foods Inc.*, the Supreme Court held that, due to a recall of the impugned product by the defendants, the facts could not support a finding that the impugned product posed a "real and substantial danger"— "[w]hile the RTE meats may have posed a real and substantial danger to consumers when they were manufactured, ***any such danger evaporated when they were recalled*** and destroyed." (emphasis added);<sup>1</sup> and

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<sup>1</sup> [1688782 Ontario Inc. v. Maple Leaf Foods Inc.](#), [2020] 3 SCR 504 [*Maple Leaf Foods Inc.*] at para. 58.



- b) the comparable and parallel settlement achieved in U.S. proceedings related to the same Subject Vehicles and Defects (discussed in more detail below).
14. By the Amended Order of the Ontario Superior Court of Justice dated May 7, 2024, this action was certified as a class proceeding to settle the economic loss claims of the Settlement Class Members. The date of the Settlement Approval Hearing in Ontario is July 30, 2024 at 10:00 a.m. The Amended Order is attached as **Exhibit “E”** to this affidavit.
15. By Judgment dated May 6, 2024, and Revised Order dated May 15, 2024 of the Superior Court of Quebec, the *Gagnon v. General Motors of Canada Company and General Motors LLC* (No.: 500-06-000729-158) and *Gagnon v. General Motors of Canada Company and General Motors LLC* (No.: 500-06-000687-141) actions (together, the “Quebec Actions”) were authorized for settlement purposes. The date of the Settlement Approval Hearing in Quebec is July 31, 2024 at 9:30 a.m. The Judgment authorizing the Quebec Actions and the Order approving the Notices, the Notice Program, and the July 19, 2024 deadline to opt-out and object are attached as **Exhibit “F”** and **“G”**, respectively.
16. The Parties now seek the approval of the Settlement from the Ontario and Quebec Courts. The Settlement provides a Settlement Fund Amount of CAD \$12,000,000 to satisfy claims from eligible Settlement Class Members and to cover Administrative Expenses and applicable taxes. The Representative Plaintiffs do not seek any *honoraria* on this motion.
17. As described above, the Settlement Agreement also provides that the Plaintiffs’ Counsel Fee Amount (that includes all disbursements and applicable taxes) shall be paid by GM to compensate all Plaintiffs’ counsel. This amount is separate, and is not drawn, from the Settlement Fund Amount. The Settlement Agreement provides that the Maximum

Plaintiffs' Counsel Fee Amount is CAD \$4,397,500.00 (inclusive of expenses, costs, disbursements, and associated taxes).

18. For the reasons that follow, it is my opinion, and the opinion of all counsel and Parties, that the Settlement is fair, reasonable and in the best interests of the class when considered on its own and when comparing the result achieved in Canada to the result achieved in the U.S. settlement of actions related to the same Subject Vehicles and the same Defects (as well as an alleged airbag defect that was part of the U.S. litigation but is not part of the Canadian proceedings) and Recalls, and when taking into account the law in Canada as it currently stands on economic loss claims.

19. In addition, Plaintiffs' Counsel have invested substantial time and incurred significant expense in advancing this litigation for the past 10 years and have carried substantial disbursements and associated opportunity costs during that time. As the total amount payable by GM under the Settlement is \$16,397,500, the Maximum Plaintiffs' Counsel Fees Amount of \$4,397,500 represents approximately a maximum 20.5% contingency fee (once disbursements are deducted). As will be described below, it is respectfully submitted that Plaintiffs' counsel's request for \$4,397,500 in fees, disbursements, and taxes is fair and reasonable and should also be approved.

#### **IV. FACTS**

##### **a) Relevant Background**

20. Beginning in or about February 2014, the Defendants began recalling Subject Vehicles affected by the Defects:

a) Delta Ignition Switch Recall:

- i) Transport Canada Recall #2014-038, dated February 10, 2014: 153,310 Subject Vehicles affected. This recall is attached as **Exhibit “H”**;
  - ii) Transport Canada Recall #2014-060, dated February 26, 2014: 82,514 Subject vehicles affected. This recall is attached as **Exhibit “I”**;
  - iii) Transport Canada Recall #2014-101, dated March 31, 2014: 132,243 Subject Vehicles affected. This recall is attached as **Exhibit “J”**;
- b) Key Rotation Recall:
- i) Transport Canada Recall #2014-273, dated July 2, 2014: 30,927 Subject Vehicles affected. This recall is attached as **Exhibit “K”**;
  - ii) Transport Canada Recall #2014-246, dated June 23, 2014: 186,013 Subject Vehicles affected. This recall is attached as **Exhibit “L”**;
  - iii) Transport Canada Recall #2014-284, dated July 3, 2014: 641,121 Subject Vehicles affected. This recall is attached as **Exhibit “M”**;
- c) Camaro Knee-Key Recall:
- i) Transport Canada Recall #2014-243, dated June 20, 2014: 17,736 Subject Vehicles affected. This recall is attached as **Exhibit “N”**;
- d) Electric Power Steering Recall:
- i) Transport Canada Recall #2014-104, dated April 1, 2014: 157,423 Subject Vehicles affected. This recall is attached as **Exhibit “O”**.

## **b) The U.S. Bankruptcy Proceedings**

21. The Defendant New GM was created in 2009 following the bankruptcy of General Motors Corporation (“Old GM”) during the aftermath of the global credit crisis. In a packaged bankruptcy overseen by the federal government, New GM bought substantially all of the assets of Old GM in a sale approved on July 5, 2009 (the “Sale Order”). The Sale Order stipulated that Old GM’s assets were being sold “free and clear” of all interests.

22. Following the Recalls, lawsuits were filed against Old GM and New GM in the United States, seeking damages for personal injuries, property damage, and economic losses. However, in a series of orders issued between August 6, 2014 and July 22, 2015, the United States Bankruptcy Court of the Southern District of New York enforced the Sale Order against the plaintiffs in these lawsuits, holding that Old GM could no longer be sued because it was bankrupt (and the bankruptcy process was substantially completed), and that New GM could not be sued because it had purchased Old GM's assets "free and clear" of any liabilities related to the Ignition Switch Defect that arose before July 5, 2009.

23. On July 13, 2016, these orders were overturned by the United States Court of Appeals for the Second Circuit, and the plaintiffs' claims were allowed to proceed. The Court identified four categories of claimants: (i) those who had had accidents in subject vehicles prior to the July 5, 2009 closing; (ii) economic loss claimants who had purchased their subject vehicles prior to the July 5, 2009 closing; (iii) claimants who had purchased used subject vehicles after the July 5, 2009 closing; and (iv) claimants who were pursuing New GM for actions perpetrated by New GM independently of Old GM.

24. The Court held that the Sale Order did not cover the latter two groups. While it held that the Sale Order did in fact cover the first two groups, it found that they did not receive adequate notice of the Sale Order, giving rise to a violation of their due process rights and prejudicing them such that the Sale Order was unenforceable against them. Thus, New GM could be sued in respect of the Defects even if the plaintiffs' claims arose before Old GM's bankruptcy in July 2009. A copy of the decision of the United States Court of Appeals for the Second Circuit dated July 13, 2016 is attached as **Exhibit "P"** to this affidavit. The Plaintiffs relied on this decision during the negotiation process, in which the Defendants

asserted that they were not liable for the Defects in the Subject Vehicles designed and manufactured by Old GM.

**c) Deferred Prosecution Agreement**

25. On September 17, 2015, New GM entered a Deferred Prosecution Agreement with the U.S. Department of Justice in respect of the Defects. New GM apologized for the Defects and agreed to forfeit USD \$900 million. The Deferred Prosecution Agreement is attached as **Exhibit “Q”**.

**d) The U.S. Litigation And Settlement**

26. Parallel pure economic loss class claims were filed in the United States in 2014 and litigated in the *In re: General Motors LLC Ignition Switch*, No. 14-MDL-2543 (JMD), a multi-district litigation matter in the United States District Court for the Southern District of New York. These economic loss class claims encompassed the same Defects covered by the Canadian class proceedings, along with a side airbag defect that was not part of the Canadian proceedings. The U.S. action involved over 15.5 million vehicles, which is almost **14 times** as many Subject Vehicles that are covered by the Canadian proceedings.

27. The U.S. litigation was resolved via a nationwide class certified for settlement purposes only, which was preliminarily approved by the MDL Court on April 27, 2020, and finally approved by the MDL Court on December 18, 2020.

28. The U.S. economic loss claims were settled for USD \$121,000,000 and as mentioned, that settlement was in relation to over 15.5 million vehicles. In contrast, there are 1,291,809 Subject Vehicles in the Actions and Related Actions based on the Defendants’ best available sales and distribution data. The Canadian vehicle population is

9.1% of the U.S. vehicle population. A transcript of the hearing approving the U.S. economic loss settlement that contains discussion of the subject vehicles and class members involved in the U.S. proceeding is attached as **Exhibit “R”**.

29. Therefore, the USD \$121,000,000 settlement in the U.S. provided approximately USD \$8.53 per subject vehicle.

30. The Settlement Fund Amount of CAD \$12,000,000 provides approximately CAD \$9.29 per Subject Vehicle (based on 1,291,809 Subject Vehicles).

31. A total of approximately USD \$106,111,842.97 of settlement funds were distributed to U.S. class members, as demonstrated below.

32. Following the opt-out and objection periods, as well as settlement approval and the processing of claims, there was a total of 1,473,956 approved claims in the U.S. as follows:

- a) Delta Ignition Switch Subclass: 185,670 claims;
- b) Key Rotation Subclass: 1,037,237 claims;
- c) Camaro Knee-Key Subclass: 40,725 claims;
- d) Electric Power Steering: 129,483 claims; and
- e) Side Airbag Subclass: 80,841 claims.

33. Each U.S. claim received the following settlement payment amount:

- a) Delta Ignition Switch Subclass: USD \$97.43 per claim;
- b) Key Rotation Subclass: USD \$73.07 per claim;
- c) Camaro Knee-Key Subclass: USD \$48.72 per claim;
- d) Electric Power Steering: USD \$48.72 per claim; and
- e) Side Airbag Subclass: USD \$48.72 per claim.

34. As a result, the total amount of settlement funds paid out to U.S. class members was USD \$106,111,842.97:

- a) Delta Ignition Switch Subclass: USD \$18,089,828.10;
- b) Key Rotation Subclass: USD \$75,790,907.59;
- c) Camaro Knee-Key Subclass: USD \$1,984,122.00;
- d) Electric Power Steering: USD \$6,308,411.76; and
- e) Side Airbag Subclass: USD \$3,938,573.52.

35. Attached as **Exhibit “S”** is the home page of the U.S. GM settlement website, which provides the total number of claims per subclass and the amount of compensation per defect. Judge Jesse M. Furham approved attorney fees of USD \$24,5585,272.06 and USD \$9,914,727.94 in expense reimbursements.<sup>2</sup>

**e) The Allegations And Evidence That The Defects Caused Economic Loss**

36. The Plaintiffs allege that each of the Subject Vehicles used ignition switches and electronic modules which were improperly designed and manufactured and were prone to move from the “run” position to the “accessory” or “off” position while the Subject Vehicles were in motion and use. The movement of the ignition switch and electronic modules to the “accessory” or “off” position resulted in a loss of electrical power, as well as the turning off of the engine and the disabling of the airbags, power steering and the power brakes. Furthermore, the sensing and diagnostic module (SDM) in the Subject Vehicles was designed in a way that shut off critical vehicle systems, including airbags,

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<sup>2</sup> [\*In re General Motors LLC Ignition Switch Litigation\*](#), 14-MD-2543 (JMF) (S.D.N.Y. Dec. 18, 2020) at para. 6.

when the ignition moved into the “off” position, even if the Subject Vehicle was still moving at high speed.

37. The Plaintiffs allege that these Defects rendered the Subject Vehicles inherently dangerous and that this dangerous design flaw has caused a multitude of very serious and life-threatening injuries, and in some cases death.

38. The Plaintiffs also allege that, although the Defendants knew of these Defects since as early as 2002, they failed to inform regulatory authorities, the Class Members or the general public, or to issue a recall until February 2014.

39. In support of their case, the Plaintiffs relied on, among other things, the following evidence, included as part of their certification motion record:

- a) The admissions of GM CEO Mary Barra in press releases and in testimony before the U.S. Congress, where she acknowledged that GM made mistakes in relation to the Recall and Defects, including by using an ignition switch for the Subject Vehicles that GM knew did not meet its own specifications;
- b) The statements of the VP of GM Global Safety relating to GM’s failure to issue wide-ranging recall earlier: “We have recalled some of these vehicles before for the same issue and offered extended warranties on others, but we did not do enough.”
- c) The “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” of U.S. Attorney Anton R. Valukas, dated May 29, 2014, which concluded that the Defects were preventable had proper procedures in vehicle design, testing, safety monitoring, engineering accountability and recall been observed.
- d) The Deferred Prosecution Agreement, in which GM consented to being charged for engaging in a scheme to conceal the Defects from U.S. regulators and wire fraud. GM also admitted to various facts demonstrating it had known about the Defects since 2002, but had misled consumers. GM agreed to pay USD \$900 million.



e) The Expert Evidence of:

- i) Glen Stevick, Ph.D., P.E., who has over 35 years of experience in failure analysis, design, damage mechanics and risk assessment of automotive components. Dr. Stevick opined that all Subject Vehicles contained the Defects. The expert report of Dr. Stevick is attached as **Exhibit “T”**.
- ii) Edward M. Stockton, who has performed hundreds of motor vehicle markets studies and has developed models for valuing large volumes of used vehicles, including estimating the effect of product defects upon retail prices. Mr. Stockton opined that the Recall did not fully compensate Class Members for their losses. He estimated given the stage at which Recall were conducted, the cost in repair damages (GM cost of repair – 40% of the vehicles useful life that was consumed prior to repair) are \$80 per Subject Vehicle. He also opined that consequential damages (lost productive and incidental expenses) are \$30 per Subject Vehicle. The expert report of Mr. Stockton is attached as **Exhibit “U”**.

40. The Defendants deny liability, any causal link between the Defects and personal injuries, and any ability to determine such a causal link and said damages on a class-wide basis, and that the economic loss claims are compensable.

**f) The Basis And Evidence For The Defendants’ Denial Of All Allegations**

41. While the Defendants do not dispute the existence of the Defects, they allege that the Recalls have resolved any and all issues, were safe and effective, and do not concede that the Recalls were untimely. The Defendants assert that the Plaintiffs’ claims are akin to those advanced in the U.S. proceedings, none of which resulted in a verdict against GM. They also assert that the claims, if litigated, would require individual assessments that are not appropriate for class proceedings. The Defendants also rely on the lack of any regulatory prosecution of GM for the Defects and Recalls in Canada, as well as a lack of class members with viable personal injury claims supported by medical documentation.

42. In support of their case, the Defendants relied on, among other things, the following evidence:

- a) Recalls were submitted to and accepted by Transport Canada and the U.S. National Highway Traffic Safety Administration, neither of which criticized the Recalls during their ongoing monitoring and supervision of GM's compliance with regulations;
- b) Glen Stevick (the Plaintiffs' expert) provided the same opinion in the U.S. bellwether proceedings where his testimony and opinion were found to fall below the *Daubert* standard;
- c) No regulator in the U.S. or Canada has prosecuted GM over the timeliness of the Recalls, and the Recalls came at GM's own volition after it conducted internal reviews that resulted in many different recalls. The Defendants relied on the Supreme Court's decision in *Maple Leaf Foods Inc.*, and other Canadian jurisprudence, that have found that policy considerations favour waiving liability where the defendant has issued *voluntary* recalls to mitigate losses caused by risky products;<sup>3</sup>
- d) The U.S. bellwether cases did not result in any verdict against GM—out of the 13 cases, there were 2 jury verdicts for GM, 1 plaintiff voluntarily dismissing their claim, and 10 settlements; and
- e) Of the 23 individual actions commenced in Canada against GM, none obtained a verdict against GM, 11 were dismissed and only 5 resulted in payment by GM.

43. The Defendants also took the position on account of the terms of the bankruptcy of Old GM, and related Sale Order, that even if they were to be found liable, they could only be liable for the Defects found in approximately 12% of the Subject Vehicles. Old GM, which assembled and designed the large majority of the Subject Vehicles, was dissolved and does not exist. The Defendants further asserted that, by failing to file claims in the U.S. bankruptcy proceeding for Old GM, the class members missed their window to obtain compensation for the Defects in the Subject Vehicles assembled and designed by Old GM. Specifically:

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<sup>3</sup> *Maple Leaf Foods Inc.* at paras. 161, 163.

- a) In 2009, Old GM filed for bankruptcy and was ultimately dissolved in 2011. The assets of Old GM were sold to New GM pursuant to the Sale Order approved by the U.S. Bankruptcy Court on July 5, 2009;
  - b) The Sale Order funded the liquidation of Old GM and the payout of creditors. The liquidation plan included a claims process for unsecured creditors such as the class members;
  - c) New GM is responsible for the assembly of only the Subject Vehicles that were made on or after July 10, 2009, and the design of only those Subject Vehicles that were designed after July 10, 2009; and
  - d) GM Canada is responsible for the assembly of only a subset of the Subject Vehicles, both before and after July 10, 2009. GM Canada did not design any of the Subject Vehicles.
44. Notwithstanding the Defendants' evidence, the overarching risk for the Plaintiffs in litigation was the state of the case law relating to economic loss in Canada. Given these risks (discussed in much more detail below), and the benefits of this settlement as compared to the U.S. settlement, it is my belief that this settlement is in the best interest of the class.

## V. PROCEDURAL HISTORY

### a) Consolidation and Carriage Negotiations

45. This motion for settlement approval is brought within the following three proceedings (collectively referred to as the "Actions"):

- a) the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (the "Ontario Action");
- b) the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and
- c) the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.*

(the actions in the Superior Court of Québec are collectively referred to as the "Quebec Actions").

46. The Ontario Action was commenced on April 11, 2014, in Toronto. Around the same time, several other proposed class actions were commenced in Ontario relating to the same Recalls and Defects, namely:

- a) Green et al. v. General Motors of Canada Ltd. and General Motors Company (CV-14-20608-CP), commenced March 31, 2014;
- b) Scobie v. General Motors of Canada Limited and General Motors Company (CV-14-21250-CP), commenced September 10, 2014; and
- c) Hansen et al. v. General Motors of Canada Ltd. and General Motors Company (CV-14-21552-CP), commenced November 24, 2014.

47. Beginning May 2015, Plaintiffs' counsel in four Ontario Actions entered into carriage resolution discussions. Around October 2016, Plaintiffs' counsel in these four Ontario actions entered into a consortium agreement and brought a consent motion with the Defendants for the consolidation of the various actions. These actions were consolidated into the Ontario Action by Order of Justice Perell dated October 11, 2016 under Court File Number CV-14-502034-00CP. Justice Perell also appointed RG and KSM as Co-Lead Counsel, and LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP and Merchant Law Group LLP were named as Class Counsel in the Ontario Action.

48. Pursuant to the Order of Morawetz, R.S.J., dated June 13, 2017, and on consent of the Defendants, parallel actions that had been brought in Windsor, Ontario were consolidated with the Ontario Action and transferred to Toronto.

49. Concurrently, a number of parallel actions were commenced across the country in respect of the Recalls and Defects (collectively, the "Related Actions"):

- a) the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (the “Shewchuk Action”);
  - b) the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (the “Herbel Action”);
  - c) the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (the “Hall Action”);
  - d) the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (the “Fradette Action”);
  - e) the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (the “Coen Action”);
  - f) the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (the “Standingready Action”);
  - g) the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (the “Seeley Action”);
  - h) the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (the “Spicer Action”);
  - i) the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (the “Brown Action”);
  - j) the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (the “Mulford Action”);
  - k) the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (the “Dunphy Action”); and
  - l) the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (the “Academie Action”).
50. This motion for settlement approval applies to all of these Related Actions.

51. The two parallel Quebec Actions were commenced in the same timeframe. Pursuant to the Order of Justice Mark G. Peacock, J.S.C., dated March 8, 2016, the Quebec Actions were suspended in order to focus attention on and advance the companion Ontario Action. The suspension was continued by Order of Justice Peacock, dated November 16, 2017.

52. Plaintiffs' Counsel in the Ontario Action, the Quebec Actions, and the Related Actions subsequently entered a broader based consortium agreement to prosecute these actions on a national basis in Ontario. Pursuant to the Order of Justice Mark G. Peacock, J.S.C., dated November 16, 2017, attached hereto as **Exhibit "V"**, authorization motions in the Quebec Actions were stayed, "pending the outcome in other similar Ontario and American proceedings."

**b) Request To Admit**

53. After resolving carriage issues, Co-Lead Counsel directed efforts towards an anticipated contested certification motion and trial preparations.

54. On November 8, 2017, the Plaintiffs served the Defendants with a Request to Admit, which is attached as **Exhibit "W"** to this affidavit. On January 19, 2018, the Plaintiffs served an Amended Request to Admit, which is attached as **Exhibit "X"** to this affidavit. The Defendants responded to both Requests to Admit on February 12, 2018, a copy of which is attached as **Exhibit "Y"** to this affidavit.

55. In their response, the Defendants admitted both that many of the Subject Vehicles had low-torque ignition switches that could move out of the "run" position, and that if the movement occurred, the driver loses the assistance of power steering and power brakes.

The Defendants also admitted that if a collision occurs while the switch is in the “off” position, the vehicle’s safety airbags may fail to deploy.

**c) Class Proceedings Fund Application**

56. On January 18, 2018, after filing detailed material and attending an oral hearing, Co-Lead Counsel sought and obtained funding for the Ontario Action from the Class Proceedings Fund. Since January 2018, Co-Lead Counsel has kept the Fund apprised of the progress and status of this proceeding, including preparing and filing additional material to obtain further funding to support the prosecution of the Ontario Action. The Fund has a first charge on the Settlement Fund Amount. It is entitled to recover the costs of any disbursements it has paid from the Plaintiffs’ Counsel Fee Amount, and will apply a 10% levy to the net amounts awarded to eligible Ontario/National Settlement Class members, pursuant to s.10(3)(b) of O. Reg. 771/92. Approval of this 10% levy and the disbursement repayment is part of the relief sought on this motion. The 10% levy of the Fund does not extend to or affect Québec Class members. In error, the levy of the Class Proceeding Fund was not disclosed in the Certification/Authorization and Settlement Approval Hearings Notice. However, Co-Lead Counsel updated their website to include this information, which was also then included on the Settlement Website. This information will be included in the Approval Notices.

**d) Certification Work-Up: Co-Operation Agreement, Experts, and Motion Record**

***Co-Operation Agreement***

57. Beginning in 2014, Co-Lead Counsel engaged in discussions with counsel for the plaintiffs in the U.S. bellwether cases against GM in relation to the Defects and Recalls, as

well as counsel for Delphi, who were defendants in the Canadian Actions as well as the U.S. actions against GM. Delphi was believed to be the component builder that supplied GM with the ignition switches that were subject to the Recalls.

58. In 2014, Co-Lead Counsel and U.S. plaintiffs' counsel in the bellwether cases were advised by counsel for Delphi that the ignition switches at issue were manufactured by Delphi Automotive Systems LLC, an unrelated entity which was dissolved in or around October 2009. Further, Delphi Automotive Systems LLC had made the ignition switches at the direction of GM and had only made one component of the ignition switches. Since Delphi Automotive Systems LLC had no involvement in the design of other components of the ignition switch, and Delphi had no involvement at all, based on Co-Lead Counsel's legal research and discussion with U.S. counsel, it was determined that it was unlikely that Delphi would be found liable for the Defects.

59. On December 16, 2014, RG, on behalf of the Plaintiffs, signed a Cooperation Agreement with Delphi, pursuant to which the Plaintiffs agreed to dismiss Delphi from the Ontario Action – reserving the right to name them once again if evidence of their liability came to light – on the following terms:

- a) Delphi would provide truthful information regarding the design, development, testing, research, manufacture of, and subsequent modifications to the ignition switches at issue, and also regarding the system into which the ignition switches were incorporated;
- b) Delphi would facilitate meetings with certain fact witnesses who were involved in the development and/or manufacturing of the ignition switches for informal interviews; and
- c) Delphi would provide general technical information by way of a current employee of Delphi, who would assist by “decoding” the disclosed technical documents.



60. On December 17, 2014, Mr. Rochon and an associate of RG, as well as lead counsel in the U.S. bellwether cases, attended a meeting at Delphi's headquarters in Troy, Michigan, where Delphi disclosed numerous documents to the attendees and employees of Delphi and explained the technical aspects of those documents. The Delphi Cooperation Agreement is attached as **Exhibit "Z"**.

### *Plaintiffs' Experts*

61. Co-Lead Counsel also researched and investigated multiple engineering, economic and legal questions at issue in this litigation, spoke with various professionals in the automotive industry, and communicated with colleagues in both Canada and the U.S. This preparation included identifying and consulting with potential experts in the areas of mechanical engineering, diagnostic engineering, electrical engineering, quality control, fire and explosion investigations, econometrics, and economics.

62. In support of their motion for certification, the Plaintiffs retained and filed expert reports from Mr. Stockton, an economics expert from the Fontana Group, and Dr. Stevick, a mechanical engineering expert from Berkley Engineering & Research, Inc.

### *2020 Certification Motion Record*

63. On June 29, 2020, the Plaintiffs in the Ontario Action delivered their certification record in anticipation of a contested certification motion. This motion record included a Second Fresh As Amended Statement of Claim, two expert reports, affidavits from the three proposed representative plaintiffs Amanda Oberski, Edward Oberski and Stacey Green (attached as **Exhibits "AA"**, **"BB"**, and **"CC"**), and a lengthy solicitor's affidavit.

64. On that motion, the Plaintiffs sought certification on behalf of those who had sustained injuries or death while operating or being transported in a Subject Vehicle (the “Injury Class”) as well as for the alleged economic loss caused by the Defects (the “Owner/Lessee Class”).

## **VI. THE ECONOMIC LOSS AND CONFIDENTIAL PERSONAL INJURY SETTLEMENT**

### **a) Negotiation Process**

65. At the same time that these various steps in the litigation were taking place, Co-Lead Counsel and Defence counsel periodically canvassed the possibilities for resolving the cases. Informal steps in that regard began in or about the third quarter of 2020, shortly after the Plaintiffs delivered their certification motion record.

66. Following initial discussions in and around October 2020, the parties approached former Supreme Court of Canada Justice Thomas Cromwell to see if he would be willing to act as a mediator to assist in resolving the economic loss claims. Justice Thomas Cromwell was engaged in November 2020 for the purpose of mediating settlement of the economic loss claims.

67. From December 2020 until March 2021, the parties engaged in numerous pre-mediation calls and caucuses, and exchanged mediation materials. The first formal mediation session took place on March 26, 2021.

68. In parallel, the Parties agreed to address the personal injury claims through a separate mediation process and to temporarily suspend mediation efforts for the economic loss claims and to turn the focus on the still unresolved personal injury and fatality claims. To this end, the Parties engaged U.S. mediator Daniel J. Balhoff. Mr. Balhoff had served

as mediator and court-appointed special master in the GM settlement process in order to resolve the personal injury claims in the United States.

69. The Parties attended a one-day mediation in Chicago on November 10, 2021 and a subsequent one-day virtual mediation on May 31, 2023, assisted by Mr. Balhoff. Plaintiffs' Counsel held interviews and obtained voluminous records from class members to help to facilitate the negotiation of the settlements of their personal injury claims and were ultimately successful in obtaining a settlement of those personal injury claims without prejudicing the right of other class members to pursue, individually, litigation over their personal injuries.

70. Counsel resumed mediation of the economic loss claims with Justice Cromwell on December 7, 2021, and thereafter attended several mediation sessions. These efforts culminated in a mediation session around mid-March of 2022, at which time the Parties agreed to the final proposed settlement conditions and Term Sheet. These terms were ultimately memorialized in the Settlement Agreement, which provides for a Settlement Fund Amount of CAD \$12,000,000.00.

71. The negotiation and mediation sessions were lengthy and time consuming. The process took over a year, and involved ongoing informal discussions, multiple caucuses and conference calls with Justice Cromwell, and multiple formal mediation sessions with His Honour. The Parties, assisted by their respective experts, maintained their divergent positions in the litigation throughout the negotiations. Nonetheless, the Parties were able to resolve both personal injury and economic loss claims, and ultimately reached a Settlement Agreement that ensured access to justice that did not come at the detriment of

any individual class members' interests. The personal injury claims were resolved pursuant to a confidential agreement.

72. After agreement on the quantum of the Settlement Fund Amount and the execution of the Term Sheet, the parties began negotiations to resolve the quantum the Defendants would pay for Plaintiffs' counsels' fees and disbursements. These discussions included both formal mediations before Justice Cromwell and informal negotiations between the parties. The Parties ultimately agreed, subject to approval of the Courts in Quebec and Ontario, on a Plaintiffs' Counsel Fee Amount of \$4,397,500.00 (inclusive of fees, expenses, costs, disbursements, and associated taxes), all of which is to be paid by GM in addition to the \$12 million Settlement Fund Amount to compensate all Plaintiffs' Counsel across the country.

73. Co-Lead Counsel, including Joel Rochon and Ron Podolny of RG and Won Kim and Megan McPhee of KSM represented the Consortium at the mediations, which was also attended by other members of the Co-Lead Counsel firms.

**b) Certification For Settlement Purposes**

74. By Order dated January 16, 2024, the hearing of which was held virtually before Justice Perell, the Ontario Court certified the Ontario Action for settlement purposes with respect to the economic loss allegations relating to the Defects. This Order also discontinued all alleged class claims for wrongful death, personal injury, claims under the *Family Law Act*, R.S.O. 1990, c. F.3 (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. As discussed above, these claims were settled separately on behalf of those class

members that had viable claims for personal injuries (supported by medical documentation) and property damage. A copy of this Order is attached as **Exhibit “DD”**.

75. On January 30, 2024, the Parties filed in Québec a consent Application a) for the Approval of Notices to Class Members, b) to Amend the Applications to Institute a Class Action and c) to Authorize a Class for Settlement Purposes. The consent Application is attached as **Exhibit “EE”**.

76. Then, on March 4, 2024, Justice Nollet of the Quebec Superior Court requested Class Counsel make certain revisions to the proposed Notice Forms and Notice Program. The March 4 decision of Justice Nollet requested that revisions be made to the Notices and Notice Program is attached as **Exhibit “FF”**.

77. Co-Lead Counsel implemented those revisions, after which Justice Nollet authorized the Quebec Actions for settlement purposes in a decision dated May 6, 2024. By the Order of the Superior Court of Quebec dated May 15, 2024, the revised Short-Form and Long-Form Certification Notices and the Notice Program were approved, and the Opt-Out Deadline and the Objection Deadline were set for July 19, 2024 (the “Quebec Actions Authorization Notice Order”). The decision authorizing the Quebec Actions is attached as Exhibit “E” and the Quebec Actions Authorization Notice Order is attached as Exhibit “F”.

78. Following a case conference on May 6, 2024, Justice Glustein of the Ontario Superior Court issued an Amended Order dated May 7, 2024 approving the revised Short-Form and Long-Form Certification Notices and Notice Program (the “Ontario Action Certification Notice Order”, and with the Quebec Actions Authorization Notice Order, the “Certification/Authorization Notice Orders”).

79. The Ontario Action Certification Notice Order certified the following National Settlement Class:

All Persons resident in Canada other than Excluded Persons and other than Persons whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada.

80. The Certification/Authorization Notice Orders also certified/authorized the following four Subclasses:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the **Delta Ignition Switch Recall** (the “Delta Ignition Switch Subclass”).

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the **Key Rotation Recall** (the “Key Rotation Subclass”).

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the **Camaro Knee-Key Recall** (the “Camaro Knee-Key Subclass”); and

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the **Electric Power Steering Recall** (the “Electric Power Steering Subclass”).

81. The Québec Actions Authorization Notice Order authorized the following Québec Settlement Class:

All Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada and whose Subject Vehicles are identified based on reasonably available information from GM **as having been first retail sold in Quebec**. [Emphasis added].

82. The Québec Actions Authorization Notice Order authorized the same Subclasses as the Ontario Action Certification Notice Order.

83. The Ontario Action Certification Notice Order certified the following Common Issue:

Did any of the Defendants owe a duty of care to National Settlement Class members and if so, what was the standard of care?

84. The Québec Actions Authorization Notice Order certified the following Common Issue:

Are the defendants liable for a defect in the Subject Vehicles to the Québec Settlement Class Members?

**c) Settlement Benefits**

85. The primary benefit of the Settlement is that it provides immediate and certain compensation to Settlement Class Members who otherwise may have received *no* remedy after litigation due to the significant litigation risks related to, among other things, claims of economic loss and claims against successor corporations for defects in products manufactured by dissolved corporations (as described in detail below). The benefits of the Settlement are consistent with the benefits provided in other settlements relating to defective products that were subject to voluntary recalls. Based on GM's best available sales and distribution data for all Subject Vehicles destined for sale in Canada, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action and 19.76% of the Net Settlement Amount will be attributed to the settlement of the Quebec Actions. This allocation between the Ontario Action, which extends to all Settlement Class Members in all jurisdictions except Quebec, and the Quebec Actions is based on the GM's best data on the sales and distribution destinations of the Subject Vehicles.

86. As there are four Subclasses, four Defects, and various Recalls, the benefits available under the Settlement Agreement vary based on the applicable Recalls and Defects

for the relevant Subject Vehicle. The allocations of the Net Settlement Amount are based on relative strength of liability position of each Subclass. These allocations are the same as those determined in the U.S. settlement by a third-party neutral adjudication after hearings and submissions by lawyers appointed to represent each subclass. The Honourable Layn R. Phillips, a retired US federal judge, was court-appointed as the Economic Loss Settlement Mediator in MDL 2543 and rendered the allocation decision used in the US Settlement. Judge Phillips' Allocation Decision is attached as Exhibit "GG".

87. Delta Ignition Switch Subclass members will receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses. The Key Rotation Subclass members shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and the Electric Power Steering Subclasses.

88. The Settlement Agreement provides that the settlement amounts for each Eligible Claim for each Subclass shall be calculated in accordance with the following mathematical models:

- a) Base Payment Amount: the Net Settlement Amount is divided by the number of Eligible Claims, with the Eligible Claims of an Eligible Claimant with a Subject Vehicle covered by *both* in the Delta Ignition Switch Subclass and the Electric Power Steering Subclass being counted twice (once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass);
- b) Adjusted Base Payment Amount: the Base Payment Amount is multiplied by:
  - i) a factor of two (2) for the Eligible Claims in the Delta Ignition Switch Subclass;
  - ii) a factor of one-and-a-half (1.5) for the Eligible Claims in the Key Rotation Subclass;
  - iii) a factor of one (1) for the Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses;



- c) Total Value of the Eligible Claims for Each Subclass: the Adjusted Base Payment Amount is multiplied by the number of Eligible Claims for that subclass;
- d) The Total Value of the Eligible Claims for each Subclass is totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage;
- e) Prorated Value of Eligible Claims for each Subclass: Each Subclass's percentage is applied to the Net Settlement Amount; and
- f) Final Base Payment Amount: the Prorated Value for each Subclass is divided by the number of Eligible Claims for that Subclass to determine the payment amount for each Subclass's Eligible Claim.

**i) Anticipated Settlement Take-Up**

89. As described in more detail in the Settlement Administrator affidavit of Jennifer Keough, the take-up rate for this settlement is anticipated to be in the range of 10 percent. Much, but not everything, can be learned from the take-up rate in the U.S. settlement of analogous proceedings. In the U.S. proceedings, the take-up rate was approximately 10 percent.

90. Given that the U.S. settlement dealt with the same Subject Vehicles, Defects and Recalls as this Settlement, and given that Canadian Settlement Class Members are comprised of the same "GM car ownership" demographic as the U.S. class members, I anticipate there will be roughly similar levels of engagement and response to the Notice and Claims Program which share many similarities to the notice program and claims process used in the U.S. Although the task of anticipating class member take-up rates is by no means an exact science, here, there are important data points that provide guidance as to the anticipated take-up rates as described above.

91. As described in the Affidavit of Jennifer Keough, the Certification/Authorization Notice Program was extensive. The Certification/Authorization Notice Program gave

direct notice by email to Class Members in addition to notices published in national newspapers and on social media. The Settlement Approval Notice will also be sent to Class Members by regular mail and by email. Furthermore, Co-Lead Counsel and Related Actions Counsel have received numerous inquiries from Settlement Class Members about how to submit a claim under this Settlement.

92. It should be noted that the majority of the Subject Vehicles were manufactured prior to 2010, and many Settlement Class Members may no longer own their Subject Vehicles or may have already completed the Recall repairs. The U.S. settlement's take-up rate of approximately 10% suggests that the passage of time since class members' replacement of their Subject Vehicles may have decreased class members' general interest in submitting claims. While all individuals who were current or former owners or lessees of a Subject Vehicle on or before the Applicable Recall Announcement Date are eligible to submit claims under the Settlement Agreement, the experience in the U.S. suggests that an anticipated take-up rate of 10% for the Settlement in Canada is reasonable.

93. I believe that the take-up would have been lower than 10 percent if the Parties had decided to pursue litigation instead of settlement at this time. Proceeding with litigation would push the individual claims process far into the future; individual class members would only be able to make individual claims after the conclusion of a common issues trial in their favour. In this situation, class members could also face procedural hurdles and expenses in proving individual damages, hurdles that are not present under the simple Claims Program provided by the Settlement. I believe that the passage of additional time would likely lower the class's overall interest in pursuing individual claims, and the take-up rate would likely be lower than is anticipated under the Settlement Agreement. Finally,

this settlement provides immediate and certain compensation to all Settlement Class Members and foregoes the significant litigation risks that may have precluded the Plaintiffs from obtaining any compensation for their economic losses. Accordingly, I believe that a take-up rate of 10% is a fair and reasonable outcome.

**ii) Litigation risks**

94. A key benefit of the Settlement Agreement is the avoidance of the significant litigation risks the class members would otherwise have faced.

95. *First*, there is a very real risk that the Plaintiffs' claims may fail in light of the jurisprudence on claims of pure economic loss.

96. Recent developments in the law have curtailed the Plaintiffs ability to obtain compensation in similar circumstances. Justice Perell noted as much in the *Baggio* discontinuance decision:<sup>4</sup>

***Recent developments in the law have placed limits on the compensation available in product liability cases and have increased the litigation risk associated with products liability class actions.*** The Supreme Court of Canada has clarified the law delimiting the recoveries for pure economic losses for dangerous defective products, establishing that: (a) apart from a few exceptions, tort law leaves pure economic losses to be addressed by the law of contract; (b) there is no right to compensation for a threat of injury unless the product defect presents an imminent threat; (c) the scope of recovery is limited to mitigating or averting the danger presented by the defective product; and, (d) to the extent that it is feasible for the plaintiff to simply discard the defective product, the danger to the plaintiff's economic rights as well as the basis for recovery fall away.

As a result of these changes in the law delimiting the recoveries for pure economic losses resulting from dangerous products, ***the prospect of a substantial award for putative Class Members has been significantly curtailed in the immediate case.***

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<sup>4</sup> *Baggio v. General Motors of Canada Limited*, 2023 ONSC 3019 at paras. 9-11.

However, when the action was first commenced, a substantial award appeared possible. In light of the recent changes to the law and the diminished prospects for economic value in this proposed class action, the Plaintiffs and their counsel decided that they were no longer prepared to take on the risks of prosecuting this proposed class action. [Emphasis added].

97. **Second**, although in the U.S. it was adjudicated and found that GM continues to be liable for Subject Vehicles designed and manufactured by Old GM, Canadian courts may find otherwise or may require Canadian class members to have filed claims in the U.S. bankruptcy proceedings. For instance, the jurisprudence of the Court of Appeal for Ontario is not favourable to the Plaintiffs' position that GM is liable for the Subject Vehicles designed and assembled by Old GM.

98. In *Gregorio v. Intrans-Corp.*, Laskin J.A. (as he then was) held that a subsidiary could not be held liable for defects in a truck manufactured by its parent company unless the subsidiary is shown to be "nothing more than a conduit used by the parent to avoid liability", such that the court must step in to "prevent conduct akin to fraud that would otherwise unjustly deprive claimants of their rights."<sup>5</sup>

99. **Third**, the Ontario jurisprudence relating to successor liability is unsettled. Therefore, there is a possibility that a court may find that GM is not liable for the Defects in the Subject Vehicles designed, manufactured and assembled by Old GM. The theory of successor liability "holds that a corporation that acquires the assets of another corporation can be responsible for the liabilities of the selling corporation *in certain circumstances*

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<sup>5</sup> *Gregorio v. Intrans-Corp.*, 1994 CanLII 2241 at pp. 14-15; see also *Lilleyman v. Bumblebee Foods LLC*, 2023 ONSC 440 at para. 107.

...”. (emphasis added).<sup>6</sup> As Justice Koehnen held in *Talbot*, the law regarding the “certain circumstances” required to impose successor liability in Canada is unsettled:

[137] The plaintiff relies heavily on *Ramirez v. Amsted Industries Inc.*, 431 A. 2d. 11 (Sup. Ct., 1981) where the plaintiff was injured in 1975 while operating equipment manufactured in 1948. The original manufacturer sold its assets in 1956. ***Although liability usually does not follow assets on a sale, the court noted that there are a number of exceptions to that rule including where the purchasing corporation is merely a continuation of the vendor*** (at para. 25).

[138] The theory has been accepted as ***potentially applicable in Canada***. Its acceptance to date is ***limited to situations in which a defendant has moved for summary judgment to dismiss a claim*** against it on the basis that it acquired assets of another corporation, not shares. Several courts have refused to grant summary judgment on that basis because of the possibility that the successor liability theory may hold the defendant liable even where it purchased assets[.]

[139] The cases the plaintiff referred me to all involve negligence. *Ramirez* was, by way of example, a product liability case. Negligence cases, and in particular product liability cases, involve public policy considerations quite different from those that arise out of commercial transactions such as promissory notes.

....

[141] ***Even the cases that have applied successor liability in the limited circumstances described have noted that the law on this point in Canada is unsettled, even in the negligence context.*** This is not an appropriate case in which to extend an unsettled theory of negligence liability to commercial instruments. [Emphasis added].

100. In light of the law, class members faced significant risk that the Defendants would be held liable for only a small subset of the Subject Vehicles

101. ***Fourth***, while the Plaintiffs have argued that the caselaw supports the Plaintiffs’ theory that economic loss arising from a defective product are compensable,<sup>7</sup> the

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<sup>7</sup> *McIntosh v. Takata Corporation*, 2020 ONSC 968 at para 13; *McIntosh v. Takata Corp.*, 2019 ONSC 1317 at para 10; *Stevenson v. Mazda Motor Corp.*, 2019 ONSC 1323 at para 9; *Crisante v. DePuy Orthopaedics Inc.*, 2013 ONSC 5186 at para 35

Defendants counter that the Plaintiffs' claim for consequential damages is not viable. They assert that the alleged harm does not "rise above the ordinary annoyances, anxieties and fears that people living in society routinely, if sometimes reluctantly, accept."<sup>8</sup>

102. Class Counsel believe that a settlement today that provides the certainty of an simplified individual claims process and the guarantee of compensation to eligible Settlement Class Members that complete the Claims Program is preferable.

**d) Support For The Settlement Agreement**

103. Co-Lead Counsel individually and collectively view the Settlement as fair and reasonable and in the best interests of the of the class members. I am also advised that Ms. Stacey Green, the Representative Plaintiff, will file an affidavit in support of the Settlement.

**VII. USE OF THE SETTLEMENT FUND AMOUNT**

**a) Interest**

104. The Settlement Fund Amount will be placed in an account that generates interest gains. All interests earned on the Settlement Fund Amount (net of taxes) will form part of the Net Settlement Fund Amount that will be distributed to Class Members. Any interest earned on the Settlement Fund Amount after the Settlement Administrator has calculated the individual settlement payments will be treated as part of the Unclaimed Balance which will be distributed in the manner discussed below.<sup>9</sup>

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<sup>8</sup> *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27 at para. 9.

<sup>9</sup> Settlement Agreement, s. 6.5

**b) Administrative Expenses**

105. The Settlement Fund Amount will cover all Administrative Expenses which include all fees and disbursements incurred by the Settlement Administrator to perform the duties and services necessary to implement the Settlement Agreement. Such duties and services include providing notice to the Settlement Class Members, administering deposits and disbursements from the escrow account, implementing and administering the Claims Program, and generally maintaining and administering the escrow account and Settlement Fund Amount.<sup>10</sup>

106. The anticipated Administrative Expenses are detailed in the Jennifer Keough affidavit filed in support of this motion for Settlement Approval and approval of the Plaintiffs' Counsel Fee Amount. The anticipated Administrative Expenses for take-up rates of 5%, 10% and 15% are as follows:

- a) **5% take-up rate:** anticipated Administrative Expenses will be \$1,487,087 and the anticipated Net Settlement Fund Amount will be \$10,512,913. The anticipated Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification and Settlement Approval Hearings. The only taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (ie. earned income) in the escrow account.
- b) **10% take-up rate:** anticipated Administrative Expenses will be \$1,773,070 and the anticipated Net Settlement Fund Amount will be \$10,226,930. The anticipated Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification and Settlement Approval Hearings. The only taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (ie. earned income) in the escrow account; and
- a) **15% take-up rate:** anticipated Administrative Expenses will be \$2,066,209 and the anticipated Net Settlement Fund Amount will be \$9,933,791.00. The anticipated Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification and Settlement Approval Hearings. The

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<sup>10</sup> Settlement Agreement, ss. 2.6, 5.

only taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (ie. earned income) in the escrow account.

107. While certain Administrative Expenses will vary based on the take-up rate, over 50% of the anticipated Administrative Expenses will not vary based on the actual take-up rate. Specifically:

- a) The Notice Program (for notice of certification/authorization and for notice of approval of the Settlement Agreement);
- b) The design, development, maintenance, and operation of the Settlement Website;
- c) Setup, maintenance and operation of the contact centre (Interactive Voice Response hotline);
- d) Establishment, management, maintenance, and reconciliation of the Distribution Account, including attending to tax and interest requirements; and
- e) Domain charges, PO box charges, storage charges, copying charges and other miscellaneous expenses.

108. The above expenses are static expenses necessary to administer the Notice and Claims Program and will be incurred regardless of the take-up rate. I understand based on the Jennifer Keough affidavit that this category of charges are expected in all notice and claims programs for class action settlements, particularly where, as here, the notice program is robust and comprehensive. The Notice Program provides direct email and mail notice, as well as general notice through various avenues, including press releases, print publications, online media publications, and social media marketing. Such expansive notice, which was reasonable and necessary in this proceeding, does not come without substantial cost.

109. Further, due to the differing notice regimes for class proceedings in the U.S. as compared to Canada, there are additional Administrative Expenses incurred in



administering the Canadian GM Settlement of the GM litigation than there were for administering the U.S. settlement of the GM litigation. Namely, in the U.S. there is only a single stage notice—notice of settlement approval, whereas, in Canada, there are two stages of notice—a) notice of certification/authorization and of the settlement approval hearings and b) notice of settlement approval. There are naturally costs associated with the additional layer of notice required in Canada to protect the interests of Class Members.

110. A significant portion of the anticipated Administrative Expenses are associated with the Claims Program and the direct mailing program. The Claims Program requires JND to a) receive and process electronic and paper claims; b) validate and review the claims based on GM's data related to sales, distribution, and repairs made pursuant to Recalls; and c) verify ownership/leasing agreements. The mailing of paper Approval Notices, paper Claims Forms, Deficiency Notices (related to missing information in the Claims Forms), and Recall Repair Deficiency Notices will result in higher Administrative Expenses than the use of email and electronic forms. On average, the mailing of paper Notices and Claims Forms, and other related mail communications, costs twice as much (or more) than email communications and the use of electronic forms. However, it is fair, reasonable and in the best interests of Settlement Class Members that Notice and Claims Forms may be completed through mail or email/electronic submission rather than solely through email and electronic forms. The anticipated Administrative Expenses take into account that more than 20% of the Claims will be completed and processed through mail rather than email communications.

**c) The Levy Of The Class Proceedings Fund**

111. The Class Proceedings Fund will apply its 10% levy to the Net Settlement Fund Amount allocated to Ontario/National Settlement Class members, pursuant to section 10(3)(b) of O. Reg. 771/92 (under the *Law Society Act*, R.S.O. 1990 c. L.8).

**d) Funds Remaining After Claims Program**

112. Any Unclaimed Balance of the Net Settlement Amount (i.e. residual interest in the escrow account) will be distributed as follows:

- a) For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*: the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2 shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions; and
- b) Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions: shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

**VIII. TERMINATION RIGHTS RELATING TO OPT-OUT PROVISION**

113. The Settlement Agreement provides at section 13.2 that GM has a right to terminate the Settlement Agreement if more than a confidential number of Settlement Class Members opt-out of the Settlement. This confidential number of Opt-Outs that would trigger the termination provision was not reached during the Opt-Out Period (which ended on July 19, 2024).

## **IX. NOTICE AND ADMINISTRATION OF THE SETTLEMENT**

### **a) Notice Program And Form Of The Notices**

114. The Parties agreed to the form and content of the Approval Notice and Reminder Press Release.

115. The Approval Notice will advise the Settlement Class Members who have not opted out of their rights to participate in the settlement and will provide them with information on how to submit claims and obtain benefits under the Settlement Agreement.

116. The Approval Notice and Reminder Press Release will be disseminated in accordance with the Notice Program.

117. The affidavit of Jennifer Keough of JND Legal Administration (“JND”) provides more details regarding the Notice Program and the form of the Notices

### **b) Settlement Administrator**

118. The Parties agree that JND shall continue to serve as Settlement Administrator, subject to the affirmation by the Courts. JND was appointed Settlement Administrator for the purposes of administering the Notice Program and Settlement Website. Plaintiffs’ counsel now requests that JND continue to serve as Settlement Administrator for the purposes of, among other things, administering the Claims Program and overseeing, managing, and administering the Settlement Fund Amount.

### **c) Claim Process**

119. To submit a Claim, a Settlement Class Member submits a Claim Form (Schedule E to the Settlement Agreement) to JND by regular mail or electronically, either by email or through the Settlement Website. The Claim Form is intended to be straightforward and

easy to understand and complete. Copies of the Claim Form will be available on the Settlement Website, and will also be mailed by regular mail to Persons who request such copies. If a Claimant clearly meets the eligibility criteria, no additional supporting documents are required.

120. I believe that this process for submitting a claim is easy to complete and will be straightforward for Settlement Class Members.

**d) No Right To Appeal The Claims Process**

121. The Settlement Agreement provides at section 7.14 that the Settlement Administrator's determination of the eligibility or ineligibility of any Claim and amount of payments shall be final and binding on all Settlement Class Members and Parties with no right to appeal to any Court.

**X. COUNSEL FEES**

122. Under the terms of the Settlement Agreement, the Defendants have agreed to pay the Plaintiffs' Counsel Fee Amount – which is separate and apart from the Settlement Fund Amount – up to a maximum aggregate amount of \$4,397,500.00. Taking into account the Settlement Fund Amount of \$12,000,000, the Maximum Plaintiffs' Counsel Fee Amount represents approximately a 20.5% fee (the actual percentage is lower as the Plaintiffs' Counsel Fee Amount is inclusive of disbursements).

123. The payment of Plaintiffs' Counsel Fee Amount is governed by section 12 of the Settlement Agreement. Co-Lead Counsel agree and covenant that they shall not claim, seek, attempt to recover or otherwise collect any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.

124. The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty days after the Effective Date or the entry of both the Plaintiffs' Counsel Fee Amount Orders. The amount paid shall be allocated by Co-Lead Counsel among any and all Plaintiffs' counsel who represented any Person in the Actions and Related Actions.

125. The proceedings related to Co-Lead Counsel's request for the Court's approval of the Plaintiffs' Counsel Fee Amounts, although heard alongside the Settlement Approval Hearing, are to be considered separately from the Settlement Approval Hearing.

126. In my experience as co-founder of RG, the complications and resulting cost of prosecuting a product liability case where there have been voluntary recalls can be very significant. This was borne out in this case not only from the standpoint of the evolving law that culminated in the Supreme Court's decision in *Maple Leaf Foods* which dealt a harsh blow to the Plaintiffs' chances of success on the merits for the economic loss claims, but also the length of time—over 10 years since issuing the claim—required to achieve this recovery for class members. As discussed below, Co-Lead Counsel assessed and assumed the following risks of prosecuting the economic loss claims in this product liability action with an uncertain outcome, including exposure to not only our own fees and disbursements, but, until we obtained funding and indemnification from the Class Proceedings Fund, those of Defence Counsel as well.

**a) Co-Lead Counsel's Indemnification Against Adverse Costs Exposed Counsel To Significant Risk**

127. Co-Lead Counsel indemnified the proposed Representative Plaintiffs against adverse costs.

128. Co-Lead Counsel's indemnification against adverse costs exposed our firms to significant risk and that risk grew over the course of the action, which was without a safety net until we obtained funding and indemnification from the Class Proceedings Fund in January of 2018. It is noteworthy that other economic loss claims in proceedings involving defects in products that were subject to voluntary recalls failed to meet the certification test, such as in *Maple Leaf Foods*. Even once funding was obtained, it covered less than 25 percent of the expenses incurred for disbursements by Class Counsel and none of the fees associated with the time expended to prosecute this litigation.

**b) Product Liability Actions Where There Have Been Voluntary Recalls To Remedy The Defects Are High-Risk**

129. The predicted risks at the outset of this litigation not only came to pass, but they were also far more significant than we originally imagined. As described above at paragraphs 95-96, there is now significant risk with bringing forward product liability actions for economic loss, as developments in the law since 2020 have significantly curtailed the chances of succeeding on the merits for such claims.

130. Class Counsel was faced with the risks that this case would be hard fought by leading defense counsel who are experts in the defence of product liability actions, and would be extremely well funded and would spare no expense.

131. In our experience, given the risks of litigation on the merits, the certification motion requires considerable front-end loading wherein a plaintiff must conduct a thorough investigation and analysis into the available public record, particularly of the effectiveness of the Recalls, and commission expert opinion or opinions in order to establish that the

Recalls may not have been effective, as well as to demonstrate that any consequent economic losses can be determined on a class-wide basis.

132. If successful on the certification motion, there would be potentially a lengthy trial with extensive expert evidence analysing voluminous discovery productions required to demonstrate that the Recalls were ineffective and/or unsafe.

**c) Steps Taken In The Proceedings And Results Obtained**

133. Co-Lead Counsel successfully maneuvered through the complex settlement of both the economic loss claims of all class members and the personal injury claims of certain class members, including the estates and family members of those who had suffered serious injuries, including death.

134. Further, Co-Lead Counsel also successfully obtained funding from the Class Proceedings Fund, which necessarily required additional time and expenses to prepare materials, attend an oral hearing, and keep the Fund apprised of the status of the proceedings. The Fund will apply its levy of 10% levy to the Settlement Fund Amount. The Fund has advanced approximately \$165,125.54 of the total of \$666,043.17 disbursements incurred by Co-Lead Counsel. These disbursements will be repaid back from the Plaintiffs' Counsel Fee Amount.

**d) Fees And Disbursements**

135. In relation to Co-Lead Counsel's fees and disbursements, RG has spent approximately **\$1,097,077.26** (inclusive of HST) in time and has incurred disbursements of approximately **\$245,080.96** (inclusive of HST) totalling **\$1,342,158.22**. KSM has spent

approximately **\$860,057.13** (inclusive of HST) in time and has incurred disbursements (inclusive of HST) of approximately **\$41,747.21**, totalling **\$901,804.34**.

136. As of April 2022, Sutts Strosberg LLP has spent approximately **\$621,720** (inclusive of HST) in time and incurred disbursements of approximately **\$357,903** (inclusive of HST), totalling **\$979,623**. McKenzie Lake Lawyers LLP spent approximately **\$167,437** (inclusive of HST) and disbursements of **\$21,312** (inclusive of HST), totalling **\$188,749**.

137. For ease reference, below is a table setting out the total amount of fees and disbursements incurred by Co-Lead Counsel as well as Sutts Strosberg LLP and McKenzie Lake Lawyers LLP:

	<b>Fees</b>	<b>Disbursements</b>	<b>Total</b>
RG	\$1,097,077.26	\$245,080.96	<b>\$1,342,158.22</b>
KSM	\$860,057.13	\$41,747.21	<b>\$901,804.34</b>
Sutts Strosberg LLP	\$621,720 (as of April 2022)	\$357,903 (as of April 2022)	<b>\$979,623</b>
McKenzie Lake Lawyers LLP	\$167,437 (as of April 2022)	\$21,312 (as of April 2022)	<b>\$188,749</b>
<b>Total:</b>	<b>\$2,746,291.39</b>	<b>\$666,043.17</b>	<b>\$3,412,334.56</b>

138. Throughout these proceedings, Plaintiffs' counsel also remained in constant communication with the Representative Plaintiffs and various class members, keeping them apprised of the proceedings, advising them of their interests as well as the risks and benefits of further litigation, and otherwise communicating with them to ensure that the litigation progressed in a manner desirable to the class members. If the Court approves the Settlement Agreement, the Plaintiffs' counsel firms will continue to expend time and disbursements for:



- a) Preparing for and virtually attending the Settlement Approval Hearings in Ontario and Québec;
- b) Facilitating the implementation of the Settlement Approval Notice Program;
- c) Liaising with the Settlement Administrator to ensure the fair and efficient administration of the Settlement; and
- d) Responding to inquiries from Class Members and Plaintiffs' Counsel in Related Actions regarding the Settlement

139. When executing the Term Sheet, the Parties anticipated that Co-Lead Counsel would undertake significant further work to complete the formal Settlement Agreement and to bring this action to the settlement approval stage. Co-Lead Counsel has, in fact, incurred fees for this time, and will continue to incur fees throughout the Claims Program. In this context, the requested Plaintiffs' Counsel Fee Amount represents a premium of approximately \$985,165.44 on the value of time and disbursements, plus taxes, actually incurred by Co-Lead and Actions Counsel. This represents a very modest 1.22 times multiplier.

140. I believe that, given the resources, time and funds devoted to and invested in this litigation (described above at paragraphs 36-84) and in light of the results achieved and the significant litigation risks avoided, the requested Plaintiffs' Counsel Fee Amount is appropriate and reasonable, and ought to be awarded in this proceeding. For over 10 years, Co-Lead Counsel have diligently prosecuted the Ontario Action, as detailed above. Plaintiffs' counsel have also gained significant benefit for the Class by cooperating and aligning this action with parallel or analogous actions in other jurisdictions, including attending in-person meetings in the US, attending at the Delphi facility in Troy, Michigan to conduct due diligence interviews related to the development and manufacturing of the ignition switches that are critical to these proceedings. Co-Lead Counsel also prepared and

delivered a voluminous and comprehensive certification record that informed the Defendants' decision to proceed directly to mediation, rather than contest certification.

141. Due to the law relating to economic loss evolving in a manner unfavourable to the Plaintiffs' position in this litigation, the Plaintiffs faced the significant risk that they would receive no compensation at all for the significant time, disbursements and lost opportunity costs incurred by vigorously prosecuting this proceeding. Despite this, Co-Lead Counsel continued to move this litigation forward, engage leading experts, expend time and costs to investigate the issues of this proceeding, including attending meetings, investigations and multiple mediation sessions in the U.S., as well as Canada.

142. Given that the award of the Plaintiffs' Counsel Fee Amount will be shared amongst all Plaintiffs' counsel in the Action and Related Actions, awarding Plaintiffs' Counsel Fee Amount of \$4,397,500 is reasonable and fair, and serves the purpose of contingency fees in class proceedings, which is to incentivise class counsel to bring proceedings that are necessary to provide access to justice but are, without a reasonable contingency fee, economically unviable

143. I swear this affidavit in support of the Plaintiffs' motion for the Settlement Approval Order and Plaintiffs' Counsel Fee Amount Orders and for no other or improper purpose.

**SWORN REMOTELY BY** )  
Vincent Genova, of the City of Toronto, in) )  
the Province of Ontario, **BEFORE ME** at )  
the City of Toronto, in the province of )  
Ontario, on this 24th day of July 2024 in )  
accordance with O. Reg. 431/20, )  
Administering Oath or Declaration Remotely)



---

**VINCENT GENOVA**



---

*A Commissioner for Taking Affidavits, etc.*

OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT TORONTO

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(sworn July 24, 2024)**

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*Lawyers for the Plaintiffs*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiff

-and-

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known as  
GENERAL MOTORS OF CANADA COMPANY)

Defendants

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SETTLEMENT AGREEMENT**

Dated as of November 1, 2023

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**TABLE OF SCHEDULES**

<b>Schedule</b>	<b>Title</b>
A	General List of Subject Vehicles
B	Short-Form Certification Notice
C	Long-Form Certification Notice
D	Approval Notice
E	Claim Form
F	Initial Press Release
G	Reminder Press Release

## 1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts and without any admission or concession of liability or wrongdoing or lack of merit in their defenses by the Released Parties, all class claims asserted in the Actions and Related Actions by the Settlement Class Members (the “**Settlement**”).

Following negotiations facilitated by a mediator, The Honourable Justice Thomas Cromwell, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

Pursuant to this Settlement, benefits shall be offered to Settlement Class Members claiming economic loss in relation to a Subject Vehicle. All class claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage arising from an accident involving a Subject Vehicle shall be discontinued or removed, and claimants may instead pursue claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage individually.

Only after agreeing to the principal terms set forth in this Settlement Agreement, the Parties, with additional facilitation by The Honorable Justice Thomas Cromwell as mediator, negotiated the Plaintiffs’ Counsel Fee Amount, an amount that is separate and apart from the benefits provided to the Settlement Class in this Settlement Agreement.

## 2. DEFINITIONS

As used in this Settlement Agreement and its attached schedules, which schedules are an integral part of this Settlement Agreement and are incorporated by reference in their entirety, the following capitalized terms have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in this Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**AAT**” means the Motors Liquidation Company Avoidance Action Trust established pursuant to the Old GM Plan.



- 2.2 “**AAT Administrator**” means Wilmington Trust Company, solely in its capacity as trust administrator and trustee of the AAT pursuant to the Fourth Amended and Restated Motors Liquidation Company Avoidance Action Trust Agreement, dated as of February 25, 2019, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**AAT Agreement**”).
- 2.3 “**AAT Monitor**” means Arthur J. Gonzalez, solely in his capacity as trust monitor of the AAT pursuant to the AAT Agreement.
- 2.4 “**Actions**” means the following three (3) actions:
- 2.4.1 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (“**Ontario Action**”);
- 2.4.2 the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.* (the “**Québec Actions**”);
- 2.5 “**Actions Counsel**” means the various Settlement Class Members’ counsel who filed, or who have any claim for, or interest in, legal fees and disbursements in any way, directly or indirectly, related to, the Actions and the Related Actions, including Rochon Genova LLP, Kim Spencer McPhee P.C., LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, Merchant Law Group and Wagners.
- 2.6 “**Administrative Expenses**” means the fees and disbursements of, or incurred by, the Settlement Administrator to perform the duties and services in implementing this Settlement Agreement, including the cost of all notices to Settlement Class Members, all fees and costs of the accountant utilized by the Settlement Administrator to administer deposits to and disbursements from the escrow account containing the Settlement Fund Amount, all fees and costs to implement and

administer the Claims Program, as well as all fees and costs of maintaining an escrow account containing the Settlement Fund Amount (e.g., bank fees).

- 2.7 “**Adjusted Base Payment Amount**” has the meaning ascribed in Section 4.3.2.
- 2.8 “**Amendment Order**” means the order of the Superior Court of Québec granting the amendment of the pleadings in the Québec Actions to name only General Motors LLC and General Motors of Canada Company as defendants and to remove references to “mental distress”, “psychological and emotional distress”, “anxiety”, “fear” and “moral damages”.
- 2.9 “**Approval Notice**” means the English and French versions of the notice to Settlement Class Members substantially in the form attached to this Settlement Agreement as **Schedule “D”**, advising of the approval by the Courts of this Settlement, that the Effective Date has occurred, the commencement date of the Claims Program, the Claims Deadline, the Final Recall Repair Date, the Settlement Website, and how to access the Claims Program.
- 2.10 “**Approval Orders**” means the orders and/or judgments of the Courts approving the Settlement provided for in this Settlement Agreement without any modifications, approving the Approval Notice, and granting the Settlement Class Members’ Release.
- 2.11 “**Base Payment Amount**” has the meaning ascribed in Section 4.3.1.
- 2.12 “**Certification Notice**” means the English and French versions of the Short-Form Certification Notice and Long-Form Certification Notice to Settlement Class Members substantially in the forms attached to this Settlement Agreement as **Schedules “B”** and **“C”**, respectively, advising of the certification/authorization of the Actions for settlement purposes only; the address of the Settlement Website; the Opt-Out Deadline and procedure for opting out of this Settlement; the Objection Deadline and procedure for objecting to this Settlement; and, as approved by the Courts, the removal or discontinuance of all alleged class claims for wrongful death or personal injury (including *Family Law Act* (Ontario) or analogous claims) or

actual physical property damage arising from an accident involving a Subject Vehicle.

- 2.13 “**Certification Orders**” means the orders of the Courts (a) certifying/authorizing the Actions for settlement purposes only with respect to the National Settlement Class and the Québec Settlement Class; (b) appointing the Settlement Administrator; (c) approving the Notice Program and Certification Notice; and (d) setting the Opt-Out Deadline and Objection Deadline.
- 2.14 “**Claim**” means a properly completed Claim Form pertaining to a single Subject Vehicle submitted by or on behalf of a Claimant with all required supporting documentation to the Settlement Administrator on or before the Claims Deadline.
- 2.15 “**Claim Form**” means the document that enables a Claimant to apply for benefits under this Settlement Agreement, substantially in the form attached to this Settlement Agreement as **Schedule “E”**.
- 2.16 “**Claimant**” means a Person who purports to be a Settlement Class Member who completes and submits a Claim Form on or before the Claims Deadline, either directly or through their estate or legal representative.
- 2.17 “**Claims Deadline**” means the deadline by which a Claimant must submit a complete and valid Claim, which, subject to Section 15.11, shall be one hundred twenty (120) days from the Effective Date.
- 2.18 “**Claims Program**” means the program that the Settlement Administrator shall use to review and assess the eligibility of Claims, and to determine the benefits that Eligible Claimants are to receive under this Settlement Agreement, as described in Section 7 of this Settlement Agreement.
- 2.19 “**Co-Lead Counsel**” means Rochon Genova LLP and Kim Spencer McPhee Barristers P.C., as defined in the order of Perell J. dated October 11, 2016.
- 2.20 “**Courts**” means the Ontario Superior Court of Justice and the Superior Court of Québec.

- 2.21 “**Deficiency Notice**” has the meaning ascribed in Section 7.8.
- 2.22 “**Discontinuance Order**” means the order of the Ontario Superior of Justice discontinuing all alleged class claims in the Ontario Action for wrongful death, personal injury, claims under the *Family Law Act* (Ontario) (and analogous legislation in other Provinces), and/or claims for actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
- 2.23 “**Effective Date**” means the first business day after the last of the Required Orders becomes Final and so long as GM does not exercise its unilateral termination right provided for in Section 10.11, or a date thereafter that is agreed to in writing by the Parties.
- 2.24 “**Eligible Claim**” means a Claim that the Settlement Administrator has determined to be eligible to receive benefits under this Settlement Agreement pursuant to the process set forth in Section 7 of this Settlement Agreement.
- 2.25 “**Eligible Claimant**” means a Settlement Class Member who has submitted an Eligible Claim.
- 2.26 “**Excluded Persons**” means the following Persons
- 2.26.1 authorized GM dealers;
  - 2.26.2 daily rental fleet purchasers, owners and lessees (that is a Person engaged in the business of rental of passenger cars, without drivers, to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals) which shall be based upon GM data that it provides to the Settlement Administrator and shall be determinative;
  - 2.26.3 governmental or quasi-governmental bodies;
  - 2.26.4 the judicial officers presiding over the Actions and Related Actions and their immediate family members;

- 2.26.5 Actions Counsel as well as members of their staff and immediate family;
- 2.26.6 all Persons who have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls whose names shall be provided by GM to the Settlement Administrator; and
- 2.26.7 valid Opt-Outs.
- 2.27 “**Final**” means, in respect of any Required Orders contemplated by this Settlement Agreement, the issued and entered orders are upheld on any appeal or the time limit for any such appeal has lapsed.
- 2.28 “**Final Base Payment Amount**” has the meaning ascribed in Section 4.3.7.
- 2.29 “**Final Recall Repair Date**” means one hundred eighty (180) days after the Effective Date.
- 2.30 “**GM**” means New GM and GM Canada collectively.
- 2.31 “**GM Canada**” means General Motors of Canada Company (formerly General Motors of Canada Limited).
- 2.32 “**GUC Trust**” means the Motors Liquidation Company GUC Trust established pursuant to the Old GM Plan.
- 2.33 “**GUC Trust Administrator**” means Wilmington Trust Company, solely in its capacity as GUC Trust Administrator and Trustee of the GUC Trust pursuant to the Second Amended and Restated Motors Liquidation Company GUC Trust Agreement, dated as of July 30, 2015, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**GUC Trust Agreement**”).
- 2.34 “**GUC Trust Monitor**” means FTI Consulting, Inc., solely in its capacity as trust monitor of the GUC Trust pursuant to GUC Trust Agreement.
- 2.35 “**Joint Retention Agreement**” has the meaning ascribed in Section 5.2.

- 2.36 “**Long-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “C”**.
- 2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.
- 2.38 “**Net Settlement Amount**” means the amount determined by deducting from the Settlement Fund Amount (a) Administrative Expenses; (b) any honouraria payments that are to be paid to plaintiffs as awarded by the Courts; and (c) any taxes required to be paid with respect to the Settlement Fund Amount or amounts withheld by the Settlement Administrator to cover anticipated future tax liabilities as provided for in Section 6.5.2.
- 2.39 “**New GM**” means General Motors LLC.
- 2.40 “**Notice Program**” means the program for the publication and dissemination of the Settlement Class Notices as agreed by the Parties in consultation with the Settlement Administrator and as approved by the Courts in the Certification Orders.
- 2.41 “**Objection Deadline**” means the deadline for Settlement Class Members to object to this Settlement, which shall be sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.
- 2.42 “**Old GM**” means Motors Liquidation Company f/k/a General Motors Corporation.
- 2.43 “**Old GM Bankruptcy Estates**” means the Debtors’ (as defined in the Old GM Plan) estates created upon the commencement of the chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, captioned *In re Motors Liquidation Corporation, et al. f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG), including, without limitation, all property, rights, defenses and claims included therein.
- 2.44 “**Old GM Plan**” means the *Debtors’ Second Amended Joint Chapter 11 Plan*, dated March 18, 2011, and as confirmed by the United States Bankruptcy Court for the Southern District of New York on March 29, 2011.

- 2.45 “**Opt-Outs**” means all Persons meeting the definition of Settlement Class Members who have submitted timely requests for exclusion from this Settlement in conformity with the procedural and substantive requirements of this Settlement Agreement and the Certification Orders, prior to the Opt-Out Deadline, and who do not revoke such request for exclusion prior to the Opt-Out Deadline or other date as ordered by the Court.
- 2.46 “**Opt-Out Deadline**” means sixty (60) days after both Certification Orders have been entered by the Courts.
- 2.47 “**Parties**” means the Settlement Class Representatives, Co-Lead Counsel and GM.
- 2.48 “**Person(s)**” means an individual, corporation, business, company, firm, partnership, association, proprietorship, trust, estate, governmental or quasi-governmental body, or any other entity or organization.
- 2.49 “**Plaintiffs’ Counsel Fee Amount**” means such funds as may be approved and awarded in the aggregate by the Courts, pursuant to Plaintiffs’ Counsel Fee Amount Orders, as the full and total amount of fees, expenses, costs, disbursements and associated taxes that GM shall pay to compensate any and all plaintiffs’ counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, and that shall not, under any circumstances exceed CA\$4,397,500.00 (four million, three-hundred and ninety seven thousand and five hundred Canadian dollars) (the “**Maximum Plaintiffs’ Counsel Fee Amount**”).
- 2.50 “**Plaintiffs’ Counsel Fee Amount Orders**” means the orders of both Courts approving the payment to Actions Counsel of the Plaintiffs’ Counsel Fee Amount.
- 2.51 “**Preliminary Administrative Expenses**” has the meaning ascribed in Section 5.2 and are part of the Administrative Expenses.

2.52 “**Québec Settlement Class**” means all Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.

2.53 “**Recalls**” means the GM vehicle recalls covered by the following Transport Canada Recall Numbers:

2.53.1 2014-038, 2014-060, and 2014-101 (collectively the “**Delta Ignition Switch Recall**”);

2.53.2 2014-273, 2014-246, and 2014-284 (collectively the “**Key Rotation Recall**”);

2.53.3 2014-243 (the “**Camaro Knee-Key Recall**”); and

2.53.4 2014-104 (the “**Electric Power Steering Recall**”).

2.53.5 For purposes of cross-reference, the below table lists the GM Recall Numbers and Transport Canada Recall Numbers for each of the Recalls:

	GM Recall Number	Transport Canada Recall Number
<b>Delta Ignition Switch Recall</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
<b>Key Rotation Recall</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key Recall</b>	14294	2014-243
<b>Electric Power Steering Recall</b>	14115	2014-104
	14116	
	14117	
	14118	

2.54 “**Recall Announcement Date**” means the certain date in the chart below that is the end of the month following the month of GM’s last initial notification to owners/lessees of each Recall, according to GM's internal data. For a Subject



Vehicle subject to more than one of the Recalls, the Recall Announcement Date shall be the later of the dates in the chart below:

	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	13454	2014-038	September 30, 2014
	14063	2014-060	
	14092	2014-101	
Key Rotation Recall	14172	2014-273	November 30, 2014
	14497		
	14299	2014-246	
	14350	2014-284	
Camaro Knee-Key Recall	14294	2014-243	October 31, 2014
Electric Power Steering Recall	14115	2014-104	February 28, 2015
	14116		
	14117		
	14118		

2.55 “**Recall Repair Deficiency Notice**” has the meaning ascribed in Section 7.11.

2.56 “**Related Actions**” means the twelve (12) actions listed below:

2.56.1 the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

2.56.2 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (“**Herbel Action**”);

2.56.3 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (“**Hall Action**”);

2.56.4 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (“**Fradette Action**”);

2.56.5 the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (“**Coen Action**”);

2.56.6 the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (“**Standingready Action**”);

2.56.7 the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (“**Seeley Action**”);

2.56.8 the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (“**Spicer Action**”);

2.56.9 the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (“**Brown Action**”);

2.56.10 the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (“**Mulford Action**”);

2.56.11 the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (“**Dunphy Action**”);

2.56.12 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (“**Academie Action**”);

2.57 “**Released Claims**” has the meaning ascribed in Section 11.3.

2.58 “**Released Parties**” means each of the following persons and entities, jointly and severally, individually and collectively (individually, “**Released Party**”):

2.58.1 General Motors of Canada Limited (now known as General Motors of Canada Company), General Motors Company, General Motors LLC, General Motors Holdings LLC, Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.;

2.58.2 Any and all Persons, including dealerships, involved in any of the design, manufacture, assembly, testing, sale, repair, marketing, advertising, inspection, maintenance, recall, or distribution of a Subject Vehicle;

2.58.3 Any and all suppliers of materials, components, and/or services used in the manufacture of a Subject Vehicle;

2.58.4 General Motors Corporation, Motors Liquidation Company, the GUC Trust Monitor, the GUC Trust Administrator, the GUC Trust, any former, current, or future holder of Units (as defined in the GUC Trust Agreement) issued by the GUC Trust (“**Unitholders**”), the AAT, the AAT Administrator, the AAT Monitor, the Old GM Bankruptcy Estates, and any other trust established by the Old GM Plan to hold or pay liabilities of Old GM; and

2.58.5 Any and all past, present and future officers, directors, agents, employees, servants, associates, spouses, representatives, subsidiaries, affiliated companies, parent companies, joint-ventures and joint-venturers, partnerships and partners, members, stockholders, shareholders, bondholders, Unitholders, beneficiaries, trustees, insurers, reinsurers, dealers, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, divisions, agents, agents’ representatives, lawyers, administrators, advisors, predecessors, successors, heirs, executors and assignees of any of the above.

2.59 “**Releasing Parties**” means the Settlement Class Members who are not Opt-Outs, each on behalf of themselves and their heirs, beneficiaries, estates, executors, administrators, representatives, agents, counsel, insurers, reinsurers, subsidiaries, corporate parents, predecessors, successors, indemnitors, subrogees, assigns, and any legal, juridical, or natural person or entity who may claim, by, through, under or on behalf of them.

2.60 “**Required Orders**” means:

2.60.1 The following issued, entered, and Final orders by the Courts: (a) the Amendment Order; (b) the Discontinuance Order; (c) the Certification Orders; and (d) the Approval Orders; and

2.60.2 Issued, entered, and Final orders dismissing the Related Actions with prejudice and without costs.

2.61 “**Settlement Administrator**” means the third-party agreed to by the Parties to administer the Settlement pursuant to the terms and conditions of this Settlement Agreement and applicable Required Orders with such administration to include, but not be limited to, administration of the Settlement Class Notices, administration of the Claims Program, implementing and administering the Settlement Website, opening an escrow account into which the Settlement Fund Amount shall be deposited and making disbursements from the Settlement Fund Amount to pay Administrative Expenses and to make settlement payments to Eligible Claimants.

2.62 “**Settlement Agreement**” means this settlement agreement, including its schedules, exhibits, addenda, and any supplemental agreements agreed to in writing by the Parties.

2.63 “**Settlement Approval Hearings**” means the hearings before the Courts for the purpose of obtaining the Approval Orders.

2.64 “**Settlement Class**” means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada. The Settlement Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

- 2.65 “**Settlement Class Member**” means a member of the Settlement Class (collectively “**Settlement Class Members**”).
- 2.66 “**Settlement Class Members’ Release**” means the full and final release of the Released Parties, and waiver, bar order, and covenant not to sue the Released Parties, by the Releasing Parties as particularized in Section 11 of this Settlement Agreement.
- 2.67 “**Settlement Class Notices**” means the English and French versions of the Certification Notice and Approval Notice.
- 2.68 “**Settlement Class Representatives**” means with respect to the Ontario Action, Stacey Green, and with respect to the Québec Actions, Michael Gagnon.
- 2.69 “**Settlement Fund Amount**” means the amount of CA\$12,000,000.00 (twelve million Canadian dollars), which is the full and total amount to be paid by GM in this Settlement other than the Plaintiffs’ Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of this Settlement Agreement, and which shall not be paid by GM unless and until each of the terms and conditions for such payment set forth in this Settlement Agreement are met.
- 2.70 “**Settlement Website**” means the website, in English and French, administered by the Settlement Administrator to facilitate the Settlement.
- 2.71 “**Short-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “B”**.
- 2.72 “**Subclasses**” means each of the four subclasses as follows:
- 2.72.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and

2.72.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and

2.72.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and

2.72.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).

2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

2.73 “**Subject Vehicles**” means the GM motor vehicles subject to the Recalls as specifically defined by the VINs provided by GM to the Settlement Administrator. A general list of the make, model and model years of GM vehicles that may be subject to each Recall is attached to this Settlement Agreement as **Schedule “A”**. Since not all vehicles of a certain make, model or model year may have been subject to a Recall, only the VINs provided by GM to the Settlement Administrator for each make, model and model year GM vehicle are Subject Vehicles.

2.74 “**Unclaimed Balance**” means any funds that remain from the Net Settlement Amount after the distribution of settlement payments to Eligible Claimants and the expiry of at least one-hundred and eighty (180) days following the last payment to Eligible Claimants.

2.75 “**VIN**” means the vehicle identification number.

2.76 The term “their” includes “it” or “its” where applicable.

**3. CERTIFICATION FOR SETTLEMENT PURPOSES AND SETTLEMENT AGREEMENT APPROVAL**

3.1 Promptly after the execution of this Settlement Agreement, Co-Lead Counsel shall submit this Settlement Agreement to the Courts pursuant to motions for the Certification Orders. Simultaneously, Co-Lead Counsel shall bring a motion before the Superior Court of Québec seeking the Amendment Order, a motion before the Ontario Superior Court of Justice seeking the Discontinuance Order, and Actions Counsel shall seek the dismissal of the Related Actions with prejudice pursuant to motions brought before the relevant court for each Related Action.

3.2 The motions for the Certification Orders submitted to both Courts shall specify that Co-Lead Counsel seek a Certification Order that is conditional upon a complementary Certification Order being made by the other Court.

3.3 Any certification/authorization of the Actions shall be for the purpose of this Settlement only, and the Released Parties retain all rights to assert that certification/authorization of a class in the Actions and Related Actions for any other purpose is not appropriate.

3.4 This Settlement Agreement shall be null and void and of no force and effect unless the Required Orders are entered in a form agreed to by the Parties and the Effective Date occurs, unless otherwise agreed to in writing by the Parties.

**4. SETTLEMENT BENEFITS**

4.1 Subject to the termination rights as set out in Section 13, and other terms and conditions of this Settlement Agreement, and in consideration for the Settlement Class Members’ Release, after the Effective Date, GM agrees to provide to the Settlement Class Members the consideration of payment of the Settlement Fund Amount, as well as separate payment of the Plaintiffs’ Counsel Fee Amount. This Section 4 describes allocation of the Net Settlement Amount, which shall be paid to Eligible Claimants from out of the Settlement Fund Amount. Sections 5 and 6

address GM's payment of Administrative Expenses and the Settlement Fund Amount Balance, respectively. GM's separate payment of the Plaintiffs' Counsel Fee is addressed in Section 12 below.

4.2 The Net Settlement Amount shall be distributed to Eligible Claimants after the Final Recall Repair Date in the following manner to be computed by the Settlement Administrator:

4.2.1 Each Eligible Claim by members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.2.2 Each Eligible Claim by members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3 In order to determine the settlement payment amount for each Eligible Claim for each Subclass, the following calculation process shall be used:

4.3.1 First, the number of all Eligible Claims for all Subclasses shall be divided into the Net Settlement Amount to determine an initial "**Base Payment Amount**" for calculation purposes. Only an Eligible Claim of an Eligible Claimant with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be counted twice, once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass.

4.3.2 Second, an "**Adjusted Base Payment Amount**" shall be determined by multiplying the Base Payment Amount by a factor of two (2) for Eligible Claims in the Delta Ignition Switch Subclass, by a factor of one-and-a-half (1.5) for Eligible Claims in the Key Rotation Subclass, and by a factor of one (1) for Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses.



4.3.3 Third, the Adjusted Base Payment Amount for each Subclass shall be multiplied by the number of Eligible Claims in that Subclass to determine the total value of the Eligible Claims for that Subclass.

4.3.4 Fourth, the total value of the Eligible Claims for each Subclass shall be totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage.

4.3.5 Fifth, each Subclass' percentage shall be applied to the Net Settlement Amount in order to determine a prorated value of Eligible Claims for each Subclass.

4.3.6 Sixth, each Subclass' prorated value of Eligible Claims shall be divided by the number of all Eligible Claims for that Subclass to determine the payment amount for each Subclass' Eligible Claim.

4.3.7 Thus, and put another way, the “**Final Base Payment Amount**”, that is, the one that forms the basis for payments to Settlement Class Members for each of their individual Eligible Claims, can be calculated as

$$[\text{Net Settlement Amount}] / [2 \times (\text{no. of Eligible Claims in Delta Ignition Switch Subclass}) + 1.5 \times (\text{no. of Eligible Claims in Key Rotation Subclass}) + 1 \times (\text{no. of Eligible Claims in Camaro Knee-Key Subclass}) + 1 \times (\text{no. of Eligible Claims in Electric Power Steering Subclass})]$$

Eligible Claimants in the Camaro Knee-Key Subclass and Electric Power Steering Subclass will receive that Final Base Payment Amount. Eligible Claimants in the Delta Ignition Switch Subclass will receive 2x the Final Base Payment Amount. Eligible Claimants in the Key Rotation Subclass will receive 1.5x the Final Base Payment Amount. Eligible Claimants with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive 3x the Final Base Payment Amount.

## 5. ADMINISTRATIVE EXPENSES

- 5.1 All Administrative Expenses, including Preliminary Administrative Expenses, shall be paid from out of the Settlement Fund Amount, and GM shall not pay any additional amount toward Administrative Expenses.
- 5.2 The Parties will enter into a “**Joint Retention Agreement**” with the Settlement Administrator that will specify the permissible Administrative Expenses that GM agrees to pay from the Settlement Fund Amount for Administrative Expenses that are expected to be incurred before the Effective Date, including, but not limited to, costs associated with vendors retained to assist with delivering the Certification Notice to the Settlement Class, the development and implementation of the Settlement Website and the implementation of the Settlement Phone Number (as defined in Section 9.7) (the “**Preliminary Administrative Expenses**”). The Joint Retention Agreement will include a maximum amount to be determined in GM’s sole discretion that GM shall pay for the Preliminary Administrative Expenses.
- 5.3 GM agrees to pay, before the Effective Date, the Preliminary Administrative Expenses into the escrow account to be opened by the Settlement Administrator, and any payment out of the escrow account shall only be to the Settlement Administrator to pay invoices for Preliminary Administrative Expenses and only with the express written consent of GM and Co-Lead Counsel.
- 5.4 Any payment out of the escrow account by the Settlement Administrator pertaining to invoices for Administrative Expenses incurred on or after the Effective Date shall be subject to the express written consent of Co-Lead Counsel and GM.
- 5.5 If this Settlement Agreement is terminated pursuant to Section 13, any amount that GM agreed to pay in Preliminary Administrative Expenses less any unearned or unspent amount of such Preliminary Administrative Expenses and accrued interest in the escrow account on such Preliminary Administrative Expenses, which shall be promptly refunded to GM by the Settlement Administrator from the escrow account, shall be the full and total amount that GM shall be obligated to pay in this Settlement.

- 5.6 In the event that this Settlement Agreement is not terminated, any amount that GM agrees to pay in Preliminary Administrative Expenses shall be deducted from the remainder of the Settlement Fund Amount that GM shall pay pursuant to Section 6.1.

**6. PAYMENT OF SETTLEMENT FUND AMOUNT BALANCE**

- 6.1 Subject to the termination rights as set forth in Section 13, GM shall pay the Settlement Fund Amount, less any amount GM has paid for Preliminary Administrative Expenses, into the escrow account to be opened and maintained by the Settlement Administrator within thirty (30) days of the Effective Date.
- 6.2 If this Settlement Agreement is not terminated pursuant to Section 13, the Settlement Fund Amount together with the Plaintiffs' Counsel Fee Amount comprise the full and total amount that GM shall be obligated to pay in consideration of this Settlement. GM shall not, under any circumstances, be responsible for, or liable for, payment of any amount in this Settlement greater than the combined amount of the Settlement Fund Amount plus the Plaintiffs' Counsel Fee Amount.
- 6.3 The Settlement Administrator shall not pay out all or part of the monies in the escrow account except in accordance with Sections 5.3, 5.4 and 7.15 of this Settlement Agreement, as well as in accordance with an order of the Court(s).
- 6.4 **Apportionment of Net Settlement Amount.**

6.4.1 As to the portions of the Net Settlement Amount attributable to and for the Ontario Action and the Québec Actions, Actions Counsel stipulates, and the Defendants accept, that, based on GM's best available data, which shall be determinative, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action, and that 19.76% of the Net Settlement Amount will be attributed to the settlement of the Québec Actions.

## 6.5 Interest and Taxes.

6.5.1 Subject to Section 6.5.3, all interest earned on the Settlement Fund Amount until the Settlement Administrator conducts the calculation of settlement payments as stipulated in Section 4.2 shall form part of the Net Settlement Amount to be allocated by the Settlement Administrator to Eligible Claimants pursuant to Section 4.2 above. All interest earned on the Settlement Fund Amount after that date shall form part of the Unclaimed Balance.

6.5.2 Subject to Section 6.5.3, all taxes payable on any interest that accrues on the Settlement Fund Amount shall be paid from the Settlement Fund Amount. The Settlement Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Fund in the escrow account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Fund Amount shall be paid from the Settlement Fund Amount in the escrow account. The Settlement Administrator is entitled to withhold from the Settlement Fund Amount prior to disbursement of the Net Settlement Amount to Eligible Claimants an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants with any remainder after payment of taxes to form part of the Unclaimed Balance.

6.5.3 GM shall have no responsibility to make any filings relating to the escrow account and will have no responsibility to pay tax on any income earned by the Settlement Fund Amount or pay any taxes on the monies in the escrow account, unless this Settlement Agreement is terminated or invalidated, in which case the interest earned on the Settlement Fund Amount in the escrow account or otherwise shall be paid to GM, which, in such case, shall be responsible for the payment of any taxes on such interest.

6.6 **Remainder Funds.** Should there be any Unclaimed Balance of the Net Settlement Amount, those funds shall be distributed from the escrow account by the Settlement Administrator in the following manner:

6.6.1 For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2, shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4.

6.6.2 Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4, shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

## 7. CLAIMS PROGRAM PROCESS AND ADMINISTRATION

7.1 The Claims Program shall commence with the acceptance of Claim Forms as soon as reasonably practicable after the Effective Date.

7.2 The Claim Form and Approval Notice shall be made available on the Settlement Website as soon as reasonably practicable following the Effective Date. The Settlement Administrator shall mail paper copies of the Claim Form and Approval Notice to Persons who request such copies.

7.3 Claimants may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by email, or physically by mail to the Settlement Administrator.

7.4 Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline in order for the Claimant to qualify as an Eligible Claimant. Claim Forms submitted electronically or postmarked after the Claims Deadline shall be

rejected by the Settlement Administrator as untimely, shall not be reviewed, and shall not qualify as an Eligible Claim.

7.5 It is a fundamental condition of this Settlement and the intention of the Parties that all Recall repairs must be completed on a Subject Vehicle by an authorized GM dealer on or before the Final Recall Repair Date for a Claim to become an Eligible Claim, unless the Claimant establishes that they no longer have possession, custody, or control of the Subject Vehicle and, therefore, have no ability themselves to have the Recall repairs performed.

7.6 To become an Eligible Claimant with an Eligible Claim, a Settlement Class Member must:

7.6.1 Submit to the Settlement Administrator a completed Claim Form on or before the Claims Deadline, and any additional documentation the Settlement Administrator may thereafter require, to establish that:

7.6.1.1 The Claimant owned or leased a Subject Vehicle on or before the Recall Announcement Date of the applicable Recall (no Person may submit more than one claim per individual Subject Vehicle);

7.6.1.2 The Claimant is not an Excluded Person; and

7.6.1.3 If GM's records supplied to the Settlement Administrator show that all repairs have not been completed for any Recalls relating to the Subject Vehicle, and the Claimant is the current owner or lessee of the Subject Vehicle:

- (a) then, on or before the Final Recall Repair Date, all repairs have been completed by an authorized GM dealer for any Recalls relating to the Subject Vehicle; or
- (b) the Subject Vehicle is no longer in the Claimant's possession, custody, or control.

GM has the option, in its sole discretion, to determine whether or not the documentation provided with respect to this Section 7.6.1.3 is sufficient, and GM may, in its sole discretion, delegate any such determination to the Settlement Administrator, in which case GM has the right to audit the Settlement Administrator's determinations before the Net Settlement Amount is distributed to Eligible Claimants. If GM does not exercise these options in regard to any particular Claim, the Settlement Administrator shall determine the sufficiency of such documentation for that Claim.

7.7 The Settlement Administrator shall review all Claims to ensure that the Claimants provide information that demonstrates:

7.7.1 that the VIN supplied by the Claimant for their Subject Vehicle is included on a list of VINs of Subject Vehicles supplied by GM to the Settlement Administrator, which list shall be determinative;

7.7.2 that the Claimant is not an Excluded Person;

7.7.3 that the Claimant is a current or former owner or lessee of a Subject Vehicle on or before the applicable Recall Announcement Date; and

7.7.4 if the data supplied to the Settlement Administrator by GM indicates that the Recall repairs have not been completed on the Subject Vehicle, that the Claimant no longer has possession, custody, or control of the Subject Vehicle, or, if they have possession, custody or control of a Subject Vehicle, that the Recall repair(s) have been performed on the Subject Vehicle on or before the Final Recall Repair Date.

7.8 The Settlement Administrator has the right to request verification of claim eligibility, including verification of the purchase, ownership, lease or resale of Subject Vehicles, and completion of the Recall repairs by an authorized GM dealer. If the Settlement Administrator determines that a Claimant has not sufficiently completed the Claim Form, or failed to submit all required or requested documentation, the Settlement Administrator shall send written notification to the

Claimant identifying the missing information (including by e-mail where the Claimant selects e-mail as their preferred method of communication) (“**Deficiency Notice**”).

- 7.9 The Settlement Administrator shall send a Claimant a Deficiency Notice if it determines that additional information is required to complete, verify, or substantiate the Claim. Such information includes but is not limited to:
- 7.9.1 if the Claimant did not complete all sections of the Claim Form;
  - 7.9.2 if the Claimant submitted insufficient vehicle information on the Claim Form;
  - 7.9.3 if documentation is required to substantiate and/or verify the information contained in the Claim Form; and/or
  - 7.9.4 if the Claim Form is not signed.
- 7.10 The Claimant shall have thirty (30) days from the postmark date or email sent date of the Deficiency Notice to submit the requested information or documentation. If the Claimant does not timely submit their response on or before said thirty (30) days, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.11 The Settlement Administrator shall utilize data supplied by GM to determine whether the Recall repair(s) were performed on the Subject Vehicle. If the GM data indicates that the Recall repair(s) have not yet been performed and the Claimant is the current owner or lessee of the Subject Vehicle, the Settlement Administrator shall send a “**Recall Repair Deficiency Notice**” to the Claimant identifying the incomplete Recall repair(s) that must be completed by an authorized GM dealer on or before the Final Recall Repair Date. The Settlement Administrator may require confirmation and documentary proof (e.g. a repair order on an authorized GM dealer's form) from the Claimant of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle, which must be on or before the Final Recall Repair Date, and the authorized GM dealer at which the outstanding



Recall repair(s) were performed, or the Settlement Administrator may rely on updated data supplied by GM to verify that the Recall repair(s) have been completed on or before the Final Recall Repair Date.

- 7.12 A Claimant who receives a Recall Repair Deficiency Notice must obtain the outstanding Recall repair(s) for the Subject Vehicle on or before the Final Recall Repair Date, and, if requested by the Settlement Administrator, must submit to the Settlement Administrator documentary proof (e.g. a repair order on an authorized GM dealer's form) of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle and the authorized GM dealership at which the outstanding Recall repair(s) were performed on the Subject Vehicle on or before thirty (30) days after the Final Recall Repair Date. If the Claimant does not timely respond to the Recall Repair Deficiency Notice on or before said thirty (30) days after the Final Recall Repair Date, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.13 The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Program. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim to prevent actual or possible fraud and abuse and shall report any such fraud or abuse to Co-Lead Counsel, GM and to law enforcement authorities.
- 7.14 If the Settlement Administrator's review establishes that a Claim clearly demonstrates eligibility for a payment and is an Eligible Claim, the Settlement Administrator shall approve the Claim and process it in accordance with Section 4.3, including determining to which Subclass(es) the Eligible Claimant belongs and the amount of the payment to the Eligible Claimant. With the exception of the options granted to GM in Section 7.6.1.3, the decisions of the Settlement Administrator with respect to the eligibility or ineligibility of any Claim and amount of payment shall be final and binding on a Claimant and all Parties with no right of appeal to any court.

- 7.15 As soon as practicable following the Final Recall Repair Date plus any required cure period for deficiencies, the Settlement Administrator shall report to Co-Lead Counsel and GM the particulars of the proposed distribution of settlement payments to Eligible Claimants. No distribution of settlement monies from the escrow account shall occur without the express written approval of both Co-Lead Counsel and GM. The Settlement Administrator shall distribute settlement payments to Eligible Claimants as soon as practicable following the express written approval of both Co-Lead Counsel and GM.
- 7.16 The Settlement Administrator shall pay an Eligible Claim via issuance of a cheque sent by regular mail to the mailing address provided by the Eligible Claimant or by direct deposit to the bank account provided by the Eligible Claimant. Cheques not cashed by an Eligible Claimant within one-hundred and eighty (180) days of issuance will become stale-dated, not eligible for redemption and form part of the Unclaimed Balance. There will be no obligation to reissue stale-dated cheques.
- 7.17 Upon the completion of the Claims Program, Claimants shall be able to view the Settlement Website or otherwise contact the Settlement Administrator for information about their Claim.
- 7.18 The Settlement Administrator shall prepare periodic reports on the progress and status of the Claims Program that shall be provided to GM and Co-Lead Counsel. Unless otherwise reasonably requested by GM or Co-Lead Counsel, the Settlement Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter until one-hundred and eighty (180) days after the issuance of payments to Eligible Claimants. These reports shall include information sufficient to allow GM and Co-Lead Counsel to assess the Claims Program's progress. The Parties may request that the Settlement Administrator include specific information within the reports to facilitate the assessment of the Claim Program's progress.
- 7.19 When the Claims Program is concluded, the Settlement Administrator is to provide a final report to the Courts, GM and Co-Lead Counsel, detailing the number of

Eligible Claimants that received benefits under the Settlement, the total value of those benefits in each Subclass and the individual payments to be made to each Eligible Claimant in each Subclass. After one-hundred and eighty (180) days have passed since the issuance of payments to Eligible Claimants, the Settlement Administrator is to promptly provide a report to GM and Co-Lead Counsel including an accounting of the Unclaimed Balance.

7.20 No materials submitted by any Claimant will be returned to such Claimant. The Settlement Administrator shall be permitted to dispose of any materials submitted by a Claimant after the conclusion of the Claims Program.

7.21 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating Claims and paying Eligible Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary, to the Settlement Administrator, GM, Co-Lead Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by GM to comply with obligations to regulators in Canada. The Settlement Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information.

## **8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT**

8.1 The Parties agree to collaborate and cooperate regarding the form and content of all proposed orders submitted to the Courts in the Actions and to the courts in the Related Actions. The form and content of all such proposed orders shall be approved by the Parties before they are submitted to a court.

8.2 Subject to the termination rights set out in Section 13, the Parties and their successors, assigns, and counsel agree to use best and good faith efforts to obtain prompt approval of this Settlement Agreement by the Courts without modification.

- 8.3 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “F”**, announcing this Settlement following the entry of the Certification Orders by both Courts.
- 8.4 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “G”**, providing a reminder to Settlement Class Members to file Claims following the entry of the Approval Orders by both Courts and before the Claims Deadline.
- 8.5 Aside from such joint or respective press releases, neither the Parties nor Actions Counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement, unless otherwise agreed to in writing by the Parties.
- 8.6 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.7 The Parties agree to cooperate and make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the Administration Expenses, are reasonable.
- 8.8 The Parties and their successors, assigns, and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for GM and Co-Lead Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Settlement Administrator.

8.9 In the event that the Parties are unable to reach an agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, GM and Co-Lead Counsel may seek the assistance of the Courts to resolve such matters.

## 9. NOTICE TO THE CLASS

9.1 **Notice Program.** The Notice Program utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Certification Orders. Following the entry of the Certification Orders, the Notice Program shall be effectuated in the manner directed and approved by the Courts. The Parties agree that the Notice Program and methods of notice therein described are valid and effective to provide practicable notice to the Settlement Class.

9.2 GM shall have no additional obligations to pay for any aspect of the Notice Program other than paying the Preliminary Administrative Expenses, and, if all conditions are met, the balance of the Settlement Fund Amount. The Parties shall have the right but not the obligation to monitor, inspect and audit the costs associated with the Notice Program.

9.3 **Settlement Class Information.** Based on customer contact information in GM's possession, to the extent such information was registered by customers with GM, GM will make reasonable efforts to compile a list of names, email addresses and mailing addresses of Settlement Class Members. This information shall be delivered to the Settlement Administrator prior to the date the Certification Notice is to be disseminated pursuant to the Notice Program.

9.4 If this Settlement Agreement is terminated or invalidated, all information provided by GM pursuant to Section 9.3 shall be destroyed forthwith, no record of the information so provided shall be retained by Actions Counsel or the Settlement Administrator in any form whatsoever.

9.5 The Parties will work co-operatively to leverage existing data which GM may have in its possession that can be used by the Settlement Administrator to find efficient ways to effect notice and assist Claimants in filling out Claim Forms, including, but not limited to (a) utilizing ownership and lessee data, including email, if available, to provide direct notice to Settlement Class Members; and (b) providing the data to the Settlement Administrator to “auto-populate” Claim Forms, to the extent possible in accordance with Canadian law and privacy obligations.

9.6 **Certification Notice.** Details regarding the Short-Form Certification Notice and a Long-Form Certification Notice are set forth below:

9.6.1 **Short-Form Certification Notice.** Short-Form Certification Notices in English and French shall be disseminated in accordance with the Notice Program. These Short-Form Certification Notices shall include details of where to access the Settlement Website on which English and French versions of the Long-Form Certification Notice shall be made available. The Short-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “B”**.

9.6.2 **Long-Form Certification Notice.** The Long-Form Certification Notice shall: (a) state that this Settlement Agreement is contingent upon entry of the Required Orders; (b) advise Settlement Class Members that they may elect to opt out of the Settlement Class by submitting a written statement providing the information required by Section 10.3 to the Settlement Administrator prior to the Opt Out Deadline; (c) advise Settlement Class Members that they may object to this Settlement Agreement by submitting a written statement of objection clearly specifying the grounds for the objection and providing the information required by Section 10.3 to the Settlement Administrator no later than the Objection Deadline; (d) advise that any Settlement Class Member may enter an appearance at the Settlement Approval Motion, including through counsel of their choice at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of their intention to opt out of the Settlement Class will be bound

by the Approval Orders in the Actions, including the Settlement Class Release included therein. The Long-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “C”**. The Long-Form Certification Notice shall be posted on the Settlement Website and shall be emailed or mailed to any Person requesting a copy from the Settlement Administrator.

9.7 **Settlement Phone Number.** The Settlement Administrator shall establish and manage a Canadian toll-free phone number as soon as reasonably practicable after the entry of the Certification Orders which Settlement Class Members can call to receive automated information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining the Long-Form Certification Notice of this Settlement Agreement described in Section 9.6.2 or any other materials described in Section 9.6; (c) the Objection Deadline and Opt-Out Deadline; (d) how to submit a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Motion (the “**Settlement Phone Number**”). The information accessible through the Settlement Phone Number shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

9.8 **Settlement Website.** The Settlement Website shall be functional and accessible as soon as practicable after the entry of the Certification Orders. The domain name of the Settlement Website must be approved by the Parties in writing. The Settlement Website will have additional functionality to facilitate the submission of Claims as soon as reasonably practicable following the Effective Date. The Settlement Website shall include, in PDF format, content agreed upon by the Parties and/or as required by the Court, and shall inform Settlement Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, the precise content of which shall be subject to written approval of the Parties, including, but not limited to, the following information once known and/or existing:

9.8.1 The Opt-Out Deadline, the Objection Deadline, the Claims Deadline, and the Final Recall Repair Date;

- 9.8.2 The procedure for opting out of, or objecting to, the Settlement;
- 9.8.3 The date of the Settlement Approval Hearing;
- 9.8.4 Contact information for the Settlement Administrator including the Settlement Phone Number and an email address through which Settlement Class Members may send questions to the Settlement Administrator;
- 9.8.5 Copies of this Settlement Agreement with signatures redacted, the Certification Notice, the Approval Notice, the Certification Orders and the Approval Orders;
- 9.8.6 Instructions on how to obtain benefits under this Settlement;
- 9.8.7 A searchable VIN interface (i.e. VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- 9.8.8 A mechanism by which Claimants can electronically submit Claim Forms to pursue a Claim;
- 9.8.9 A mechanism by which Settlement Class Members can sign up to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy;
- 9.8.10 Any orders issued in the Actions or Related Actions relevant to this Settlement; and
- 9.8.11 Any other information the Parties determine is relevant to the Settlement.

9.9 **Settlement Approval Notice.** The Settlement Administrator shall disseminate the Approval Notice in English and French in accordance with the Notice Program. The Settlement Approval Notice shall: (i) advise Settlement Class Members that this Settlement Agreement has been approved by the Courts in the Approval Orders; and (ii) include details of how to make a Claim and where to access the Settlement



Website. The Settlement Approval Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “D”**.

**10. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT**

10.1 The Settlement Administrator shall receive any (a) written elections to opt out of the Settlement Class and (b) objections to this Settlement.

10.2 To be valid, elections to opt out of the Settlement Class and objections to this Settlement must be received by the Settlement Administrator by mail, courier, or e-mail on or before the Opt-Out Deadline or Objection Deadline, as applicable.

10.3 All written elections to opt out of the Settlement Class and objections to this Settlement Agreement shall be personally signed by the purported Settlement Class Member and shall include the following:

10.3.1 The purported Settlement Class Member’s name, mailing address, telephone number, and e-mail address (if available);

10.3.2 Proof that the Person is a Settlement Class Member, including proof of the dates of ownership or lease of the Subject Vehicle and a statement that the Person is not an Excluded Person;

10.3.3 The make, model, model year, and VIN of the Person’s Subject Vehicle;

10.3.4 A statement that the purported Settlement Class Member elects to be excluded from the Settlement Class, or a brief statement of the nature of and reason for the objection to this Settlement, as applicable;

10.3.5 If objecting to this Settlement, whether the potential Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

10.4 Notwithstanding Section 10.3, if the purported Settlement Class Member is deceased, a minor, or otherwise incapable of making their own election to opt out or

their own written objection to this Settlement, the information required by Section 10.3 must be provided along with the contact information of the person acting on behalf of the purported Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the purported Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a purported Settlement Class Member, except in the circumstances set out in this Section.

- 10.5 Settlement Class Members who elect to opt out of the Settlement Class may re-elect in writing to become Settlement Class Members, if their re-election request is received by the Settlement Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be members of the National Settlement Class or the Québec Settlement Class, or by written agreement of GM and Co-Lead Counsel.
- 10.6 Any Settlement Class Member who elects to opt out of the Settlement Class may not also object to this Settlement Agreement, subject to Section 10.5. If a Settlement Class Member elects to opt out of the Settlement Class and also objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 10.7 All Settlement Class Members who do not opt out in a timely and proper manner will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Courts in the Approval Orders.
- 10.8 Any Settlement Class Member who objects to this Settlement shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved by the Courts in the Approval Orders, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of a Claim and other requirements herein.

- 10.9 The Settlement Administrator shall provide copies of all opt-out elections and objections categorized by Subject Vehicle to GM counsel and Co-Lead Counsel on a weekly basis after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes expense.
- 10.10 The Settlement Administrator shall, no later than seven (7) days before the Settlement Approval Hearing, provide to GM and Co-Lead Counsel and file with the Court an affidavit reporting on the number of opt-out elections and re-elections received on or before the Opt-Out Deadline, and compiling all of the written objections received on or before the Objection Deadline, and to the extent possible, detailing the number of opt-outs and written objections categorized by Subject Vehicle.
- 10.11 The Parties have agreed to a confidential number of Opt-Outs, and will provide this number to both Courts in a document to be kept under seal by both Courts pursuant to the Parties' joint request until the Settlement Approval Hearings. If the number of Opt-Outs is greater than the confidential number agreed to by the Parties, then GM shall have the unilateral right, but not the obligation, to terminate this Settlement Agreement. GM shall advise the Courts and Co-Lead Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Settlement Administrator referred to in Section 10.10. In such event, this Settlement Agreement shall be null, void, of no force or effect, and may not be offered or received into evidence or utilized for any other purpose in the Actions, Related Actions or in any other claim, action, suit or proceeding.

## **11. SETTLEMENT CLASS MEMBERS' RELEASE**

- 11.1 The Parties agree that the Settlement Class Members' Release as set forth in this Section 11 inclusive of 11.1 to 11.17, shall take effect upon the Effective Date.
- 11.2 It is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle

shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only.

- 11.3 In consideration of this Settlement Agreement inclusive of the valuable consideration from GM set forth herein at Sections 4, 5, 6, 11 and elsewhere, effective automatically as of the Effective Date, the Releasing Parties fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, arbitrations, mediations, liabilities, suits, petitions, rights, damages and causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any and all Released Parties, arising out of, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls (individually and collectively, the “**Released Claims**”). Released Claims include, without limitation, any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, derivative or direct, asserted or un-asserted, whether or not concealed or hidden, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls, including without limitation (a) any claims that were or could have been asserted in the Actions or Related Actions or were the subject matter of the Actions, the Related Actions, or the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, loss of use or enjoyment (due to alleged mental/emotional/psychological distress, anxiety, fear or otherwise), sale, lease and/or resale of the Subject Vehicles or alleged mental/emotional/psychological distress, anxiety, or fear not attributable to a motor vehicle accident involving a Subject Vehicle; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary damages, liens, injunctive relief, counsel, expert, consultant, or other litigation fees or costs (other than the

Settlement Fund Amount and Plaintiffs' Counsel Fee Amount to be awarded by the Courts in connection with this Settlement Agreement), and any other liabilities that were or could have been asserted in any civil, criminal, administrative, or other proceeding, including arbitration. Released Claims also include without limitation any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature on which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, tort, breach of contract, fraud, breach of statute, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the subject matter of the Actions, Related Actions, and/or Recalls.

- 11.4 Notwithstanding the foregoing, this Settlement Agreement does not release, and the definition of Released Claims does not include, any individual claims for wrongful death, personal injury (and related family/dependent claims) or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but does release, and the definition of Released Claims does include, class or representative claims for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. For the avoidance of doubt, a Settlement Class Member may pursue an individual claim or proceeding for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but a Settlement Class Member shall not threaten, commence, participate in (as a class member or otherwise), continue, or act as a class representative or in any representative capacity in, any class or representative claim, suit, action or proceeding involving such claims against any Released Party anywhere, and shall cause any such claim, suit, action or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.

- 11.5 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under this Settlement Agreement, and the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement. For the avoidance of doubt, Co-Lead Counsel and the Settlement Class Representatives expressly understand and acknowledge that they and/or other Releasing Parties may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions, the Related Actions, the Recalls and/or the Settlement Class Members' Release. Nevertheless, it is the intention of Co-Lead Counsel and the Settlement Class Representatives in executing or authorizing the execution of this Settlement Agreement and obtaining the Approval Orders that the Releasing Parties shall fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.
- 11.6 The Releasing Parties shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding, whether in Canada or elsewhere, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other Person, with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Members' Release. To the extent that the Releasing Parties have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, the Related Actions or the Recalls, whether in Canada or elsewhere, they shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.
- 11.7 If a Releasing Party commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal,

provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Releasing Party's cost, be brought to an end, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all related costs and expenses, including legal costs and disbursements, from that Releasing Party arising as a result of that Releasing Party's breach of their obligations under this Settlement Class Members' Release and the Settlement Agreement, provided that the Released Party provides written notice to the Releasing Party of their alleged breach and an opportunity to cure the breach.

- 11.8 For the avoidance of doubt, each Releasing Party is prohibited from instituting, continuing, maintaining or asserting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any suit, action, proceeding, cause of action, claim, or demand against any Released Party or any other Person who may claim contribution, indemnity or other claims of relief over from any Released Party, in respect of any matter related to the Released Claims, and any such claim shall be immediately brought to an end consistent with Section 14.1 and the Parties shall cooperate and request any court in which such claim is or has been commenced to order the immediate dismissal of same with prejudice. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.
- 11.9 Settlement Class Members expressly agree that this Settlement Class Members' Release, the Certification Orders and the Approval Orders are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Members' Release whether in Canada or elsewhere, without regard to whether any Settlement Class Member submits a Claim, has a Claim rejected by the Settlement Administrator, or receives any payment pursuant to this Settlement.

- 11.10 The Releasing Parties expressly waive, relinquish, release with prejudice, and covenant not to exercise, and shall be deemed to have waived, relinquished, released with prejudice, and covenanted not to exercise, any and all rights and/or claims that they may have under any law, statute, regulation, adjudication, quasi-adjudication, decision, administrative decision, common law principle, or any other theory or source, that would otherwise limit the effect of the Settlement Class Members' Release, including but not limited to any law that might limit a release to those claims or matters actually known or suspected to exist at the time of execution of the release.
- 11.11 The Settlement Class Members who are not Opt-Outs represent and warrant that they are the sole and exclusive owners and holders of any and all Released Claims released under this Settlement Agreement. The Settlement Class Members who are not Opt-Outs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, subrogated or encumbered, whether through insurance, indemnification, or otherwise, any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Actions, Related Actions, Recalls or their Released Claims, including without limitation, any claim for benefits, proceeds, or value under the Actions, the Related Actions or due to the Recalls, and that they are not aware of any insurers, indemnitors, subrogees, or anyone other than themselves claiming any interest, in whole or in part, in the Actions, Related Actions, Recalls or their Released Claims or in any benefits, proceeds, or values to which they may be entitled under the Actions, Related Actions, Recalls or as a result of their Released Claims.
- 11.12 Without in any way limiting its scope, and except with respect to the Plaintiffs' Counsel Fee Amount, the Settlement Class Members' Release includes, by example and without limitation, a release of Released Parties by the Releasing Parties from any and all claims for counsel's fees, costs, expert fees, consultant fees, interest, litigation fees, costs or any other fees, costs and/or disbursements incurred by any lawyers, Co-Lead Counsel, Actions Counsel, Settlement Class Representatives or



Settlement Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Settlement Class.

- 11.13 Any and all benefits paid by GM pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims of the Releasing Parties against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Members' Release. The Settlement Class Members' Release shall be irrevocably binding upon all Releasing Parties.
- 11.14 This Settlement Class Members' Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members who do not opt out, regardless of whether those Settlement Class Members submit a Claim, have their Claim rejected by the Settlement Administrator, or receive compensation under this Settlement Agreement.
- 11.15 Nothing in the Settlement Class Members' Release shall preclude any action to enforce the terms of this Settlement Agreement, or claims arising out of, based upon, relating to, concerning, or in connection with the interpretation or enforcement of the terms of this Settlement. Nothing in the Approval Orders shall bar any action by any of the Parties to enforce or effectuate the terms of this Settlement Agreement and the Approval Orders.
- 11.16 The Settlement Class Representatives and Co-Lead Counsel hereby agree and acknowledge that this Section 11 was separately bargained for and constitutes a key, material term of this Settlement Agreement, and shall be reflected in the Approval Orders.
- 11.17 A Settlement Class Member shall fully indemnify the Released Parties and hold the Released Parties harmless for any breach by the Settlement Class Member of this Settlement Agreement including, without limitation, full indemnification of the Released Parties for all legal costs and disbursements incurred by the Released Parties to enforce this Settlement Agreement.

**12. PLAINTIFFS' COUNSEL FEE AMOUNT**

- 12.1 Pursuant to motions brought before the Courts without any opposition from GM, Co-Lead Counsel shall seek the Plaintiffs' Counsel Fee Amount Orders. The monies awarded by the Courts through the Plaintiffs' Counsel Fee Amount Orders shall be the sole compensation paid by GM to all lawyers who represent any Person asserting economic loss claims pertaining to the Actions and the Related Actions. In no event and under no circumstances shall GM pay any amount in counsel fees and expenses greater than the Maximum Plaintiffs' Counsel Fee Amount.
- 12.2 Co-Lead Counsel agree and covenant that, regardless of any orders, judgments, decisions, awards, or any other basis, they shall not claim, seek, attempt to recover, accept, execute on, or collect on any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.
- 12.3 The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty (30) days after the Effective Date or the entry of both Plaintiffs' Counsel Fee Amount Orders. If the Required Orders do not become Final, the Effective Date is not achieved or both Plaintiffs' Counsel Fee Amount Orders are not entered, GM shall have no obligation to pay any of the Plaintiffs' Counsel Fee Amount.
- 12.4 The Plaintiffs' Counsel Fee Amount paid by GM to Co-Lead Counsel shall be allocated by Co-Lead Counsel among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Actions Counsel deem fit. The Settlement Agreement shall not be in any way affected by, nor shall any of the Released Parties have any liability for, any dispute that exists or later arises with respect to the distribution or allocation of the Plaintiffs' Counsel Fee Amount.
- 12.5 The proceedings related to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount are to be considered separately from the Courts' approval of the Settlement. The Plaintiffs' Counsel Fee Amount Orders are to be separate and distinct from the Approval Orders so that any appeal from the

Plaintiffs' Counsel Fee Amount Orders shall not constitute an appeal of the Approval Orders. Any order or proceedings relating to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount, or any appeal from the Plaintiffs' Counsel Fee Amount Orders, or reversal or modification thereof, shall not operate to terminate, cancel, or modify this Settlement Agreement, or affect or delay the entry of the Required Orders.

**13. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

- 13.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and, if necessary, approval by the Courts, provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class Members or approval by the Court if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.
- 13.2 GM shall have the right, in its sole discretion, to terminate this Settlement Agreement in the event any of the following conditions occur: (a) one or more of the Required Orders are not entered or do not become Final; (b) the Plaintiffs' Counsel Fee Amount Orders award a Plaintiffs' Counsel Fee Amount in excess of the Maximum Plaintiffs' Counsel Fee Amount; (c) any portion or provision of the Settlement Class Members' Release detailed in Section 11 is held in whole or in part to be invalid, illegal or unenforceable in any respect; (d) more than a confidential number of Settlement Class Members opt out of the Settlement as provided for in Section 10.11; and/or (e) the confidentiality provision stipulated in Section 15.13 of this Settlement Agreement is violated.
- 13.3 This Settlement Agreement shall terminate at the discretion of GM, or the Settlement Class Representatives, through Co-Lead Counsel, if: (a) a court, or any appellate court therefrom, rejects, nullifies, modifies, refuses to enforce, or denies

approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline); or (b) a court, or any appellate court therefrom, does not enter or completely affirm, or alters, nullifies, narrows, expands, or refuses to enforce, any portion of the Required Orders (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline). The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other Parties no later than twenty (20) business days after receiving notice of the event prompting the termination.

13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13, neither GM nor the Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

13.5 If this Settlement Agreement is terminated pursuant to this Section 13, then:

13.5.1 the Parties shall be returned to their positions *status quo ante* with respect to the Actions and Related Actions;

13.5.2 this Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of 5.5, 6.5.3, 7.21, 9.4, 11.16, 11.17, 15.1, 15.2, 15.10 and 15.13, and the definitions and any exhibits and schedules applicable thereto;

13.5.3 no motion or application to certify or authorize an Action or Related Action as a class action on the basis of the Settlement Agreement shall proceed;

13.5.4 any order certifying or authorizing an Action as a class action on the basis of the Settlement Agreement, and any other settlement-related orders or judgments entered in the Actions after the date of execution of this Settlement Agreement, shall be null and void and shall have no force or effect and the Parties shall cooperate with each other to carry out any necessary changes in court files to give effect to this provision;

13.5.5 all of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of GM, the Settlement Class Representatives, and any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

13.5.6 the Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defences, arguments, and motions as to all causes of action and claims that have been or might later be asserted in the Actions or Related Actions, including, without limitation, the argument that the Actions or Related Actions may not be litigated as class actions;

13.5.7 the Settlement Class Representatives, and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions or Related Actions including, without limitation, any argument concerning class certification/authorization, liability, or damages;

13.5.8 neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;

13.5.9 within ten (10) business days, Actions Counsel shall return, or cause to be returned, to GM any and all amounts paid in respect of the Plaintiffs' Counsel Fee Amount and the Settlement Administrator shall return, or cause to be returned, to GM any unearned or unspent portion of the Settlement Fund Amount or Preliminary Administrative Expenses; and

13.5.10 within ten (10) business days, Actions Counsel and the Settlement Administrator shall destroy all non-public information provided to them by GM in

connection with this Settlement and its negotiation and, to the extent Actions Counsel and/or the Settlement Administrator have disclosed any non-public information provided by GM in connection with this Settlement Agreement, Actions Counsel and/or the Settlement Administrator shall recover and destroy such information. Actions Counsel and the Settlement Administrator shall provide GM with a written certification of such destruction.

#### **14. TERMINATION OF ACTIONS AND JURISDICTION OF THE COURTS**

- 14.1 Co-Lead Counsel and GM agree to cooperate and take all steps as are necessary to give effect to this Settlement Agreement and to bring a final end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions, the Related Actions and in any other pending or future litigation in any way related to the Released Claims. The Parties agree that the conclusion of any litigation as set out in this Section 14 shall not alter, negate or otherwise have any impact or effect on the Settlement Class Members' Release.
- 14.2 The Courts shall retain exclusive jurisdiction over any Discontinuance Order, Amendment Order, Certification Orders, Approval Orders, and Plaintiffs' Counsel Fee Amount Orders issued in the Actions commenced in their respective jurisdictions. The Ontario Superior Court of Justice shall retain ongoing and exclusive jurisdiction to resolve any dispute that may arise in relation to the validity, performance, interpretation, enforcement, enforceability, or termination of this Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section 14, except that any dispute specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.
- 14.3 If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable

opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.

- 14.4 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

**15. OTHER GENERAL TERMS AND CONDITIONS**

- 15.1 This Settlement Agreement makes no factual findings or conclusions of law. It is agreed that, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or allegations contained in the Actions, the Related Actions or in any pleading or civil, criminal, regulatory or administrative proceeding filed against any Released Party. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense. GM has denied and continues to deny each and all of the claims and contentions alleged in the Actions and the Related Actions, and has denied and continues to deny that GM has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Actions or the Related Actions. GM believes that it has valid and complete defenses to the claims asserted in the Actions and the Related Actions, and denies that GM committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Actions or the Related Actions. GM further believes that no class could be certified/authorized or maintained for litigation or for trial. Nonetheless, GM has concluded that it is desirable that the Actions and the Related

Actions be fully and finally settled on the terms and conditions set forth in this Settlement Agreement.

- 15.2 It is agreed that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.
- 15.3 This Settlement Agreement shall be binding upon, and enure to the benefit of GM, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.
- 15.4 The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.
- 15.5 The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Co-Lead Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Members' Release, and the legal effect of this Settlement Agreement and the Settlement Class Members' Release.
- 15.6 Co-Lead Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement, to recommend the approval of this Settlement Agreement to the Courts, and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or



inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

- 15.7 Co-Lead Counsel represent that (a) Co-Lead Counsel are authorized by the plaintiffs in the Actions and the Related Actions to enter into this Settlement Agreement; and (b) Co-Lead Counsel are seeking to protect the interests of the Settlement Class.
- 15.8 Co-Lead Counsel further represent that the Settlement Class Representatives: (a) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (b) are willing, able, and ready to perform all of the duties and obligations of representatives of the Settlement Class; (c) have authorized Co-Lead Counsel to execute this Settlement Agreement on their behalf; and (d) shall remain and serve as representatives of the Settlement Class and Subclasses until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Settlement Class Representatives cannot represent the Settlement Class.
- 15.9 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior, subsequent or concurrent breach of this Settlement Agreement.
- 15.10 If the Effective Date does not occur, or the Settlement is terminated pursuant to Section 13, then this Settlement Agreement, and the certification of the Settlement Class (and Subclasses) provided for herein, shall be vacated and the Actions and Related Actions shall proceed as though the Settlement Class (and Subclasses) had never been certified, without prejudice to any Party's position on the issue of class certification/authorization or any other issue. The Parties shall cooperate with each other to carry out the necessary changes in court files to give effect to this provision.
- 15.11 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this

Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.

- 15.12 The Parties reserve the right to agree in writing to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 15.13 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties. Information provided by GM, Co-Lead Counsel, Actions Counsel, any individual Settlement Class Member, or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and confidential and proprietary business information, shall be kept strictly confidential, except as may be expressly required (i) by law, (ii) by applicable provincial rules of professional responsibility, (iii) order of a court of competent jurisdiction over disclosing party's objection and after at least twenty-one (21) days prior written notice to GM and its counsel and a reasonable opportunity to intervene, (iv) with the express written consent of GM, directly or through its counsel, or (v) as otherwise described in this Settlement Agreement. In no circumstances shall any confidential information be disclosed for any reason without GM's prior written authorization.
- 15.14 The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the motions for the Certification Orders are filed; provided, however, that this Section shall not prevent GM from disclosing such information, prior to that date, to provincial and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, or if required by law or regulation. Nor shall the Parties and their

counsel be prevented from disclosing such information to persons or entities (such as experts, courts, legal counsel, and/or administrators) to whom the Parties agree in writing disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.

- 15.15 The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.
- 15.16 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. If requested by the Québec Court, a translation firm selected by Co-Lead Counsel shall prepare a French translation of this Settlement Agreement after its execution. The Parties agree that such translation is for convenience only. The cost of such translation shall be paid from the Settlement Fund Amount as a Preliminary Administrative Expense or Administrative Expense. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.
- 15.17 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to GM, then to:

Cheryl Woodin or Michael Smith  
BENNETT JONES LLP  
3400 One First Canadian Place  
100 King Street West

Toronto, ON M5X 1A4  
 E-mail: woodinc@bennettjones.com  
 smithmc@bennettjones.com

If to the Settlement Class  
 Representatives or Settlement  
 Class, then to:

Won J. Kim  
 KIM SPENCER McPHEE BARRISTERS  
 P.C.  
 1203-1200 Bay Street  
 Toronto, ON M5R 2A5  
 E-mail: wjk@complexlaw.ca

AND

Joel P. Rochon or Ron Podolny  
 ROCHON GENOVA LLP  
 121 Richmond Street West, Suite 900  
 Toronto, ON M5H 2K1  
 E-mail: jrochon@rochongenova.com  
 rpodolny@rochongenova.com

- 15.18 The Settlement Class, Settlement Class Representatives and GM shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.
- 15.19 The division of this Settlement Agreement into Sections and the insertion of topic and Section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 15.20 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with legal counsel and the assistance of The Honourable Justice Thomas Cromwell as mediator.
- 15.21 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 15.22 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if

necessary, the aid of the Court(s) and/or, by agreement of GM and Co-Lead Counsel.

- 15.23 The Parties represent and warrant that the individuals executing this Settlement Agreement are authorized to enter into this Settlement Agreement on their behalf.
- 15.24 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 15.25 The Parties have executed this Settlement Agreement as of the date on the cover page.

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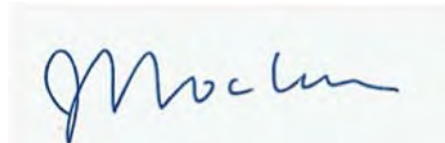


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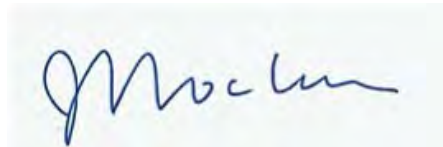
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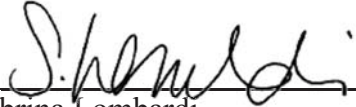
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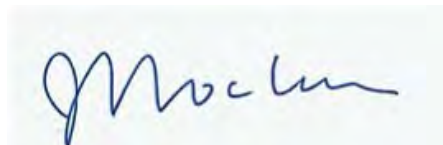
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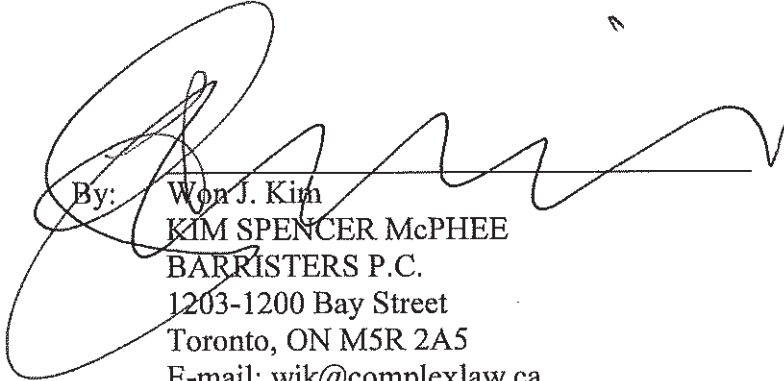
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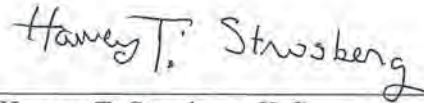
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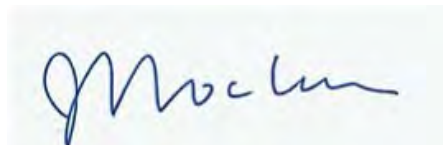


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## Schedule "A" – General List of Subject Vehicles\*

	<b>Make and Model</b>	<b>Years</b>
<b>Delta Ignition Switch Recall</b>  (Transport Canada Recall Numbers 2014-038, 2014-060, 2014-101)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2006-2011
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac Solstice	2006-2010
	Saturn Ion	2003-2007
	Saturn Sky	2007-2009
<b>Key Rotation Recall</b>  (Transport Canada Recall Numbers 2014-246, 2014-273, 2014-284)	Buick Allure	2005-2009
	Buick Lucerne	2006-2011
	Buick Regal	2004
	Cadillac CTS	2003-2014
	Cadillac Deville	2000-2005
	Cadillac DTS	2006-2011
	Cadillac SRX	2004-2006
	Chevrolet Impala	2000-2013
	Chevrolet Monte Carlo	2000-2007
	Chevrolet Malibu	1997-2005
	Oldsmobile Alero	1999-2004
	Oldsmobile Intrigue	1998-2002
	Pontiac Grand Am	1999-2005
	Pontiac Grand Prix	2004-2008
<b>Camaro Knee-Key Recall</b>  (Transport Canada Recall Number 2014-243)	Chevrolet Camaro	2010-2014
<b>Electric Power Steering Recall</b>  (Transport Canada Recall Number 2014-104)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2009-2010
	Chevrolet Malibu	2004-2006 and 2008-2009
	Chevrolet Malibu Maxx	2004-2006
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac G6	2005-2006 and 2008-2009
	Saturn Aura	2008-2009
	Saturn Ion	2004-2007

\*Of the above general list, only those vehicles with a Vehicle Identification Number that is included in the Recall(s) are included as Subject Vehicles.

Court File No. CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiff

-and-

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known as  
GENERAL MOTORS OF CANADA COMPANY)

Defendants

Court File No. 500-06-000687-141

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

Court File No. 500-06-000729-158

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**AMENDED SETTLEMENT AGREEMENT**

Dated as of July 23, 2024

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**TABLE OF SCHEDULES**

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A	General List of Subject Vehicles
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C	Long-Form Certification Notice
D	Approval Notice
E	Claim Form
F	Initial Press Release
G	Reminder Press Release
H	Objection Form
I	Opt-Out Form

## 1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts and without any admission or concession of liability or wrongdoing or lack of merit in their defenses by the Released Parties, all class claims asserted in the Actions and Related Actions by the Settlement Class Members (the “**Settlement**”).

Following negotiations facilitated by a mediator, The Honourable Justice Thomas Cromwell, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

Pursuant to this Settlement, benefits shall be offered to Settlement Class Members claiming economic loss in relation to a Subject Vehicle. All class claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage arising from an accident involving a Subject Vehicle shall be discontinued or removed, and claimants may instead pursue claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage individually.

Only after agreeing to the principal terms set forth in this Settlement Agreement, the Parties, with additional facilitation by The Honorable Justice Thomas Cromwell as mediator, negotiated the Plaintiffs’ Counsel Fee Amount, an amount that is separate and apart from the benefits provided to the Settlement Class in this Settlement Agreement.

## 2. DEFINITIONS

As used in this Settlement Agreement and its attached schedules, which schedules are an integral part of this Settlement Agreement and are incorporated by reference in their entirety, the following capitalized terms have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in this Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**AAT**” means the Motors Liquidation Company Avoidance Action Trust established pursuant to the Old GM Plan.

- 2.2 “**AAT Administrator**” means Wilmington Trust Company, solely in its capacity as trust administrator and trustee of the AAT pursuant to the Fourth Amended and Restated Motors Liquidation Company Avoidance Action Trust Agreement, dated as of February 25, 2019, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**AAT Agreement**”).
- 2.3 “**AAT Monitor**” means Arthur J. Gonzalez, solely in his capacity as trust monitor of the AAT pursuant to the AAT Agreement.
- 2.4 “**Actions**” means the following three (3) actions:
- 2.4.1 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (“**Ontario Action**”);
- 2.4.2 the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.* (the “**Québec Actions**”);
- 2.5 “**Actions Counsel**” means the various Settlement Class Members’ counsel who filed, or who have any claim for, or interest in, legal fees and disbursements in any way, directly or indirectly, related to, the Actions and the Related Actions, including Rochon Genova LLP, Kim Spencer McPhee P.C., LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, Merchant Law Group and Wagners.
- 2.6 “**Administrative Expenses**” means the fees and disbursements of, or incurred by, the Settlement Administrator to perform the duties and services in implementing this Settlement Agreement, including the cost of all notices to Settlement Class Members, all fees and costs of the accountant utilized by the Settlement Administrator to administer deposits to and disbursements from the escrow account containing the Settlement Fund Amount, all fees and costs to implement and



administer the Claims Program, as well as all fees and costs of maintaining an escrow account containing the Settlement Fund Amount (e.g., bank fees).

- 2.7 “**Adjusted Base Payment Amount**” has the meaning ascribed in Section 4.3.2.
- 2.8 “**Amendment Order**” means the order of the Superior Court of Québec granting the amendment of the pleadings in the Québec Actions to name only General Motors LLC and General Motors of Canada Company as defendants and to remove references to “mental distress”, “psychological and emotional distress”, “anxiety”, “fear” and “moral damages”.
- 2.9 “**Approval Notice**” means the English and French versions of the notice to Settlement Class Members substantially in the form attached to this Settlement Agreement as **Schedule “D”**, advising of the approval by the Courts of this Settlement, that the Effective Date has occurred, the commencement date of the Claims Program, the Claims Deadline, the Final Recall Repair Date, the Settlement Website, and how to access the Claims Program.
- 2.10 “**Approval Orders**” means the orders and/or judgments of the Courts approving the Settlement provided for in this Settlement Agreement without any modifications, approving the Approval Notice, and granting the Settlement Class Members’ Release.
- 2.11 “**Base Payment Amount**” has the meaning ascribed in Section 4.3.1.
- 2.12 “**Certification Notice**” means the English and French versions of the Short-Form Certification Notice and Long-Form Certification Notice to Settlement Class Members substantially in the forms attached to this Settlement Agreement as **Schedules “B”** and **“C”**, respectively, advising of the certification/authorization of the Actions for settlement purposes only; the address of the Settlement Website; the Opt-Out Deadline and procedure for opting out of this Settlement; the Objection Deadline and procedure for objecting to this Settlement; and, as approved by the Courts, the removal or discontinuance of all alleged class claims for wrongful death or personal injury (including *Family Law Act* (Ontario) or analogous claims) or

actual physical property damage arising from an accident involving a Subject Vehicle.

- 2.13 “**Certification Orders**” means the orders of the Courts (a) certifying/authorizing the Actions for settlement purposes only with respect to the National Settlement Class and the Québec Settlement Class; (b) appointing the Settlement Administrator; (c) approving the Notice Program and Certification Notice; and (d) setting the Opt-Out Deadline and Objection Deadline.
- 2.14 “**Claim**” means a properly completed Claim Form pertaining to a single Subject Vehicle submitted by or on behalf of a Claimant with all required supporting documentation to the Settlement Administrator on or before the Claims Deadline.
- 2.15 “**Claim Form**” means the document that enables a Claimant to apply for benefits under this Settlement Agreement, substantially in the form attached to this Settlement Agreement as **Schedule “E”**.
- 2.16 “**Claimant**” means a Person who purports to be a Settlement Class Member who completes and submits a Claim Form on or before the Claims Deadline, either directly or through their estate or legal representative.
- 2.17 “**Claims Deadline**” means the deadline by which a Claimant must submit a complete and valid Claim, which, subject to Section 15.11, shall be one hundred twenty (120) days from the Effective Date.
- 2.18 “**Claims Program**” means the program that the Settlement Administrator shall use to review and assess the eligibility of Claims, and to determine the benefits that Eligible Claimants are to receive under this Settlement Agreement, as described in Section 7 of this Settlement Agreement.
- 2.19 “**Co-Lead Counsel**” means Rochon Genova LLP and Kim Spencer McPhee Barristers P.C., as defined in the order of Perell J. dated October 11, 2016.
- 2.20 “**Courts**” means the Ontario Superior Court of Justice and the Superior Court of Québec.

- 2.21 “**Deficiency Notice**” has the meaning ascribed in Section 7.8.
- 2.22 “**Discontinuance Order**” means the order of the Ontario Superior of Justice discontinuing all alleged class claims in the Ontario Action for wrongful death, personal injury, claims under the *Family Law Act* (Ontario) (and analogous legislation in other Provinces), and/or claims for actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
- 2.23 “**Effective Date**” means the first business day after the last of the Required Orders becomes Final and so long as GM does not exercise its unilateral termination right provided for in Section 10.15, or a date thereafter that is agreed to in writing by the Parties.
- 2.24 “**Eligible Claim**” means a Claim that the Settlement Administrator has determined to be eligible to receive benefits under this Settlement Agreement pursuant to the process set forth in Section 7 of this Settlement Agreement.
- 2.25 “**Eligible Claimant**” means a Settlement Class Member who has submitted an Eligible Claim.
- 2.26 “**Excluded Persons**” means the following Persons
- 2.26.1 authorized GM dealers;
  - 2.26.2 daily rental fleet purchasers, owners and lessees (that is a Person engaged in the business of rental of passenger cars, without drivers, to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals) which shall be based upon GM data that it provides to the Settlement Administrator and shall be determinative;
  - 2.26.3 governmental or quasi-governmental bodies;
  - 2.26.4 the judicial officers presiding over the Actions and Related Actions and their immediate family members;

- 2.26.5 Actions Counsel as well as members of their staff and immediate family;
- 2.26.6 all Persons who have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls whose names shall be provided by GM to the Settlement Administrator; and
- 2.26.7 valid Opt-Outs.
- 2.27 “**Final**” means, in respect of any Required Orders contemplated by this Settlement Agreement, the issued and entered orders are upheld on any appeal or the time limit for any such appeal has lapsed.
- 2.28 “**Final Base Payment Amount**” has the meaning ascribed in Section 4.3.7.
- 2.29 “**Final Recall Repair Date**” means one hundred eighty (180) days after the Effective Date.
- 2.30 “**GM**” means New GM and GM Canada collectively.
- 2.31 “**GM Canada**” means General Motors of Canada Company (formerly General Motors of Canada Limited).
- 2.32 “**GUC Trust**” means the Motors Liquidation Company GUC Trust established pursuant to the Old GM Plan.
- 2.33 “**GUC Trust Administrator**” means Wilmington Trust Company, solely in its capacity as GUC Trust Administrator and Trustee of the GUC Trust pursuant to the Second Amended and Restated Motors Liquidation Company GUC Trust Agreement, dated as of July 30, 2015, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**GUC Trust Agreement**”).
- 2.34 “**GUC Trust Monitor**” means FTI Consulting, Inc., solely in its capacity as trust monitor of the GUC Trust pursuant to GUC Trust Agreement.
- 2.35 “**Joint Retention Agreement**” has the meaning ascribed in Section 5.2.

- 2.36 “**Long-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “C”**.
- 2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.
- 2.38 “**Net Settlement Amount**” means the amount determined by deducting from the Settlement Fund Amount (a) Administrative Expenses; (b) any honouraria payments that are to be paid to plaintiffs as awarded by the Courts; and (c) any taxes required to be paid with respect to the Settlement Fund Amount or amounts withheld by the Settlement Administrator to cover anticipated future tax liabilities as provided for in Section 6.5.2.
- 2.39 “**New GM**” means General Motors LLC.
- 2.40 “**Notice Program**” means the program for the publication and dissemination of the Settlement Class Notices as agreed by the Parties in consultation with the Settlement Administrator and as approved by the Courts in the Certification Orders.
- 2.41 “**Objection Deadline**” means the deadline for Settlement Class Members to object to this Settlement, which shall be sixty (60) days after a Certification Notice is first published or disseminated.
- 2.42 “**Objection Form**” means the document that enables a Settlement Class Member to object to the Settlement, substantially in the form attached to this Settlement Agreement as **Schedule “H”**.
- 2.43 “**Old GM**” means Motors Liquidation Company f/k/a General Motors Corporation.
- 2.44 “**Old GM Bankruptcy Estates**” means the Debtors’ (as defined in the Old GM Plan) estates created upon the commencement of the chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, captioned *In re Motors Liquidation Corporation, et al. f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG), including, without limitation, all property, rights, defenses and claims included therein.

- 2.45 “**Old GM Plan**” means the *Debtors’ Second Amended Joint Chapter 11 Plan*, dated March 18, 2011, and as confirmed by the United States Bankruptcy Court for the Southern District of New York on March 29, 2011.
- 2.46 “**Opt-Outs**” means all Persons meeting the definition of Settlement Class Members who have submitted timely requests for exclusion from this Settlement in conformity with the procedural and substantive requirements of this Settlement Agreement and the Certification Orders, prior to the Opt-Out Deadline, and who do not revoke such request for exclusion prior to the Opt-Out Deadline or other date as ordered by the Court.
- 2.47 “**Opt-Out Deadline**” means sixty (60) days after a Certification Notice is first published or disseminated.
- 2.48 “**Opt-Out Form**” means that document, that if validly completed and submitted by a Settlement Class Member before the Opt-Out Deadline, excludes that Settlement Class Member from participating in this Settlement, substantially in the form attached to this Settlement Agreement as **Schedule “I”**.
- 2.49 “**Parties**” means the Settlement Class Representatives, Co-Lead Counsel and GM.
- 2.50 “**Person(s)**” means an individual, corporation, business, company, firm, partnership, association, proprietorship, trust, estate, governmental or quasi-governmental body, or any other entity or organization.
- 2.51 “**Plaintiffs’ Counsel Fee Amount**” means such funds as may be approved and awarded in the aggregate by the Courts, pursuant to Plaintiffs’ Counsel Fee Amount Orders, as the full and total amount of fees, expenses, costs, disbursements and associated taxes that GM shall pay to compensate any and all plaintiffs’ counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, and that shall not, under any circumstances exceed CA\$4,397,500.00 (four million, three-hundred and ninety seven thousand and five hundred Canadian dollars) (the “**Maximum Plaintiffs’ Counsel Fee Amount**”).

- 2.52 **“Plaintiffs’ Counsel Fee Amount Orders”** means the orders of both Courts approving the payment to Actions Counsel of the Plaintiffs’ Counsel Fee Amount.
- 2.53 **“Preliminary Administrative Expenses”** has the meaning ascribed in Section 5.2 and are part of the Administrative Expenses.
- 2.54 **“Québec Settlement Class”** means all Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.
- 2.55 **“Recalls”** means the GM vehicle recalls covered by the following Transport Canada Recall Numbers:
- 2.55.1 2014-038, 2014-060, and 2014-101 (collectively the **“Delta Ignition Switch Recall”**);
- 2.55.2 2014-273, 2014-246, and 2014-284 (collectively the **“Key Rotation Recall”**);
- 2.55.3 2014-243 (the **“Camaro Knee-Key Recall”**); and
- 2.55.4 2014-104 (the **“Electric Power Steering Recall”**).
- 2.55.5 For purposes of cross-reference, the below table lists the GM Recall Numbers and Transport Canada Recall Numbers for each of the Recalls:

	GM Recall Number	Transport Canada Recall Number
<b>Delta Ignition Switch Recall</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
<b>Key Rotation Recall</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key Recall</b>	14294	2014-243
<b>Electric Power Steering Recall</b>	14115	2014-104
	14116	
	14117	
	14118	

2.56 “**Recall Announcement Date**” means the certain date in the chart below that is the end of the month following the month of GM’s last initial notification to owners/lessees of each Recall, according to GM's internal data. For a Subject Vehicle subject to more than one of the Recalls, the Recall Announcement Date shall be the later of the dates in the chart below:

	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	13454	2014-038	September 30, 2014
	14063	2014-060	
	14092	2014-101	
Key Rotation Recall	14172	2014-273	November 30, 2014
	14497		
	14299	2014-246	
	14350	2014-284	
Camaro Knee-Key Recall	14294	2014-243	October 31, 2014
Electric Power Steering Recall	14115	2014-104	February 28, 2015
	14116		
	14117		
	14118		

2.57 “**Recall Repair Deficiency Notice**” has the meaning ascribed in Section 7.11.

2.58 “**Related Actions**” means the twelve (12) actions listed below:

2.58.1 the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

2.58.2 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (“**Herbel Action**”);

2.58.3 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (“**Hall Action**”);



2.58.4 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (“**Fradette Action**”);

2.58.5 the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (“**Coen Action**”);

2.58.6 the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (“**Standingready Action**”);

2.58.7 the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (“**Seeley Action**”);

2.58.8 the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (“**Spicer Action**”);

2.58.9 the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (“**Brown Action**”);

2.58.10 the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (“**Mulford Action**”);

2.58.11 the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (“**Dunphy Action**”);

2.58.12 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (“**Academie Action**”);

- 2.59 “**Released Claims**” has the meaning ascribed in Section 11.3.
- 2.60 “**Released Parties**” means each of the following persons and entities, jointly and severally, individually and collectively (individually, “**Released Party**”):
- 2.60.1 General Motors of Canada Limited (now known as General Motors of Canada Company), General Motors Company, General Motors LLC, General Motors Holdings LLC, Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.;
- 2.60.2 Any and all Persons, including dealerships, involved in any of the design, manufacture, assembly, testing, sale, repair, marketing, advertising, inspection, maintenance, recall, or distribution of a Subject Vehicle;
- 2.60.3 Any and all suppliers of materials, components, and/or services used in the manufacture of a Subject Vehicle;
- 2.60.4 General Motors Corporation, Motors Liquidation Company, the GUC Trust Monitor, the GUC Trust Administrator, the GUC Trust, any former, current, or future holder of Units (as defined in the GUC Trust Agreement) issued by the GUC Trust (“**Unitholders**”), the AAT, the AAT Administrator, the AAT Monitor, the Old GM Bankruptcy Estates, and any other trust established by the Old GM Plan to hold or pay liabilities of Old GM; and
- 2.60.5 Any and all past, present and future officers, directors, agents, employees, servants, associates, spouses, representatives, subsidiaries, affiliated companies, parent companies, joint-ventures and joint-venturers, partnerships and partners, members, stockholders, shareholders, bondholders, Unitholders, beneficiaries, trustees, insurers, reinsurers, dealers, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, divisions, agents, agents’ representatives, lawyers, administrators, advisors, predecessors, successors, heirs, executors and assignees of any of the above.
- 2.61 “**Releasing Parties**” means the Settlement Class Members who are not Opt-Outs, each on behalf of themselves and their heirs, beneficiaries, estates, executors,

administrators, representatives, agents, counsel, insurers, reinsurers, subsidiaries, corporate parents, predecessors, successors, indemnitors, subrogees, assigns, and any legal, juridical, or natural person or entity who may claim, by, through, under or on behalf of them.

2.62 **“Required Orders”** means:

2.62.1 The following issued, entered, and Final orders by the Courts: (a) the Amendment Order; (b) the Discontinuance Order; (c) the Certification Orders; and (d) the Approval Orders; and

2.62.2 Issued, entered, and Final orders dismissing the Related Actions with prejudice and without costs.

2.63 **“Settlement Administrator”** means the third-party agreed to by the Parties to administer the Settlement pursuant to the terms and conditions of this Settlement Agreement and applicable Required Orders with such administration to include, but not be limited to, administration of the Settlement Class Notices, administration of the Claims Program, implementing and administering the Settlement Website, opening an escrow account into which the Settlement Fund Amount shall be deposited and making disbursements from the Settlement Fund Amount to pay Administrative Expenses and to make settlement payments to Eligible Claimants.

2.64 **“Settlement Agreement”** means this amended settlement agreement, including its schedules, exhibits, addenda, and any supplemental agreements agreed to in writing by the Parties.

2.65 **“Settlement Approval Hearings”** means the hearings before the Courts for the purpose of obtaining the Approval Orders.

2.66 **“Settlement Class”** means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in

Canada. The Settlement Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

- 2.67 “**Settlement Class Member**” means a member of the Settlement Class (collectively “**Settlement Class Members**”).
- 2.68 “**Settlement Class Members’ Release**” means the full and final release of the Released Parties, and waiver, bar order, and covenant not to sue the Released Parties, by the Releasing Parties as particularized in Section 11 of this Settlement Agreement.
- 2.69 “**Settlement Class Notices**” means the English and French versions of the Certification Notice and Approval Notice.
- 2.70 “**Settlement Class Representatives**” means with respect to the Ontario Action, Stacey Green, and with respect to the Québec Actions, Michael Gagnon.
- 2.71 “**Settlement Fund Amount**” means the amount of CA\$12,000,000.00 (twelve million Canadian dollars), which is the full and total amount to be paid by GM in this Settlement other than the Plaintiffs’ Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of this Settlement Agreement, and which shall not be paid by GM unless and until each of the terms and conditions for such payment set forth in this Settlement Agreement are met.
- 2.72 “**Settlement Website**” means the website, in English and French, administered by the Settlement Administrator to facilitate the Settlement.

- 2.73 “**Short-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “B”**.
- 2.74 “**Subclasses**” means each of the four subclasses as follows:
- 2.74.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and
- 2.74.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and
- 2.74.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and
- 2.74.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).
- 2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.
- 2.75 “**Subject Vehicles**” means the GM motor vehicles subject to the Recalls as specifically defined by the VINs provided by GM to the Settlement Administrator. A general list of the make, model and model years of GM vehicles that may be subject to each Recall is attached to this Settlement Agreement as **Schedule “A”**. Since not all vehicles of a certain make, model or model year may have been

subject to a Recall, only the VINs provided by GM to the Settlement Administrator for each make, model and model year GM vehicle are Subject Vehicles.

2.76 “**Unclaimed Balance**” means any funds that remain from the Net Settlement Amount after the distribution of settlement payments to Eligible Claimants and the expiry of at least one-hundred and eighty (180) days following the last payment to Eligible Claimants.

2.77 “**VIN**” means the vehicle identification number.

2.78 The term “their” includes “it” or “its” where applicable.

### 3. **CERTIFICATION FOR SETTLEMENT PURPOSES AND SETTLEMENT AGREEMENT APPROVAL**

3.1 Promptly after the execution of this Settlement Agreement, Co-Lead Counsel shall submit this Settlement Agreement to the Courts pursuant to motions for the Certification Orders. Simultaneously, Co-Lead Counsel shall bring a motion before the Superior Court of Québec seeking the Amendment Order, a motion before the Ontario Superior Court of Justice seeking the Discontinuance Order, and Actions Counsel shall seek the dismissal of the Related Actions with prejudice pursuant to motions brought before the relevant court for each Related Action.

3.2 The motions for the Certification Orders submitted to both Courts shall specify that Co-Lead Counsel seek a Certification Order that is conditional upon a complementary Certification Order being made by the other Court.

3.3 Any certification/authorization of the Actions shall be for the purpose of this Settlement only, and the Released Parties retain all rights to assert that certification/authorization of a class in the Actions and Related Actions for any other purpose is not appropriate.

3.4 This Settlement Agreement shall be null and void and of no force and effect unless the Required Orders are entered in a form agreed to by the Parties and the Effective Date occurs, unless otherwise agreed to in writing by the Parties.

#### 4. SETTLEMENT BENEFITS

4.1 Subject to the termination rights as set out in Section 13, and other terms and conditions of this Settlement Agreement, and in consideration for the Settlement Class Members' Release, after the Effective Date, GM agrees to provide to the Settlement Class Members the consideration of payment of the Settlement Fund Amount, as well as separate payment of the Plaintiffs' Counsel Fee Amount. This Section 4 describes allocation of the Net Settlement Amount, which shall be paid to Eligible Claimants from out of the Settlement Fund Amount. Sections 5 and 6 address GM's payment of Administrative Expenses and the Settlement Fund Amount Balance, respectively. GM's separate payment of the Plaintiffs' Counsel Fee is addressed in Section 12 below.

4.2 The Net Settlement Amount shall be distributed to Eligible Claimants after the Final Recall Repair Date in the following manner to be computed by the Settlement Administrator:

4.2.1 Each Eligible Claim by members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.2.2 Each Eligible Claim by members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3 In order to determine the settlement payment amount for each Eligible Claim for each Subclass, the following calculation process shall be used:

4.3.1 First, the number of all Eligible Claims for all Subclasses shall be divided into the Net Settlement Amount to determine an initial "**Base Payment Amount**" for calculation purposes. Only an Eligible Claim of an Eligible Claimant with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be counted twice, once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass.

4.3.2 Second, an “**Adjusted Base Payment Amount**” shall be determined by multiplying the Base Payment Amount by a factor of two (2) for Eligible Claims in the Delta Ignition Switch Subclass, by a factor of one-and-a-half (1.5) for Eligible Claims in the Key Rotation Subclass, and by a factor of one (1) for Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3.3 Third, the Adjusted Base Payment Amount for each Subclass shall be multiplied by the number of Eligible Claims in that Subclass to determine the total value of the Eligible Claims for that Subclass.

4.3.4 Fourth, the total value of the Eligible Claims for each Subclass shall be totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage.

4.3.5 Fifth, each Subclass’ percentage shall be applied to the Net Settlement Amount in order to determine a prorated value of Eligible Claims for each Subclass.

4.3.6 Sixth, each Subclass’ prorated value of Eligible Claims shall be divided by the number of all Eligible Claims for that Subclass to determine the payment amount for each Subclass’ Eligible Claim.

4.3.7 Thus, and put another way, the “**Final Base Payment Amount**”, that is, the one that forms the basis for payments to Settlement Class Members for each of their individual Eligible Claims, can be calculated as

$$[\text{Net Settlement Amount}] / [2 \times (\text{no. of Eligible Claims in Delta Ignition Switch Subclass}) + 1.5 \times (\text{no. of Eligible Claims in Key Rotation Subclass}) + 1 \times (\text{no. of Eligible Claims in Camaro Knee-Key Subclass}) + 1 \times (\text{no. of Eligible Claims in Electric Power Steering Subclass})]$$

Eligible Claimants in the Camaro Knee-Key Subclass and Electric Power Steering Subclass will receive that Final Base Payment Amount. Eligible Claimants in the Delta Ignition Switch Subclass will receive 2x the Final Base Payment Amount. Eligible Claimants in the Key Rotation Subclass will receive 1.5x the Final Base



Payment Amount. Eligible Claimants with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive 3x the Final Base Payment Amount.

## 5. ADMINISTRATIVE EXPENSES

- 5.1 All Administrative Expenses, including Preliminary Administrative Expenses, shall be paid from out of the Settlement Fund Amount, and GM shall not pay any additional amount toward Administrative Expenses.
- 5.2 The Parties will enter into a “**Joint Retention Agreement**” with the Settlement Administrator that will specify the permissible Administrative Expenses that GM agrees to pay from the Settlement Fund Amount for Administrative Expenses that are expected to be incurred before the Effective Date, including, but not limited to, costs associated with vendors retained to assist with delivering the Certification Notice to the Settlement Class, the development and implementation of the Settlement Website and the implementation of the Settlement Phone Number (as defined in Section 9.7) (the “**Preliminary Administrative Expenses**”). The Joint Retention Agreement will include a maximum amount to be determined in GM’s sole discretion that GM shall pay for the Preliminary Administrative Expenses.
- 5.3 GM agrees to pay, before the Effective Date, the Preliminary Administrative Expenses into the escrow account to be opened by the Settlement Administrator, and any payment out of the escrow account shall only be to the Settlement Administrator to pay invoices for Preliminary Administrative Expenses and only with the express written consent of GM and Co-Lead Counsel.
- 5.4 Any payment out of the escrow account by the Settlement Administrator pertaining to invoices for Administrative Expenses incurred on or after the Effective Date shall be subject to the express written consent of Co-Lead Counsel and GM.
- 5.5 If this Settlement Agreement is terminated pursuant to Section 13, any amount that GM agreed to pay in Preliminary Administrative Expenses less any unearned or unspent amount of such Preliminary Administrative Expenses and accrued interest

in the escrow account on such Preliminary Administrative Expenses, which shall be promptly refunded to GM by the Settlement Administrator from the escrow account, shall be the full and total amount that GM shall be obligated to pay in this Settlement.

- 5.6 In the event that this Settlement Agreement is not terminated, any amount that GM agrees to pay in Preliminary Administrative Expenses shall be deducted from the remainder of the Settlement Fund Amount that GM shall pay pursuant to Section 6.1.

**6. PAYMENT OF SETTLEMENT FUND AMOUNT BALANCE**

- 6.1 Subject to the termination rights as set forth in Section 13, GM shall pay the Settlement Fund Amount, less any amount GM has paid for Preliminary Administrative Expenses, into the escrow account to be opened and maintained by the Settlement Administrator within thirty (30) days of the Effective Date.

- 6.2 If this Settlement Agreement is not terminated pursuant to Section 13, the Settlement Fund Amount together with the Plaintiffs' Counsel Fee Amount comprise the full and total amount that GM shall be obligated to pay in consideration of this Settlement. GM shall not, under any circumstances, be responsible for, or liable for, payment of any amount in this Settlement greater than the combined amount of the Settlement Fund Amount plus the Plaintiffs' Counsel Fee Amount.

- 6.3 The Settlement Administrator shall not pay out all or part of the monies in the escrow account except in accordance with Sections 5.3, 5.4 and 7.15 of this Settlement Agreement, as well as in accordance with an order of the Court(s).

**6.4 Apportionment of Net Settlement Amount.**

- 6.4.1 As to the portions of the Net Settlement Amount attributable to and for the Ontario Action and the Québec Actions, Actions Counsel stipulates, and the Defendants accept, that, based on GM's best available data, which shall be

determinative, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action, and that 19.76% of the Net Settlement Amount will be attributed to the settlement of the Québec Actions.

## 6.5 **Interest and Taxes.**

6.5.1 Subject to Section 6.5.3, all interest earned on the Settlement Fund Amount until the Settlement Administrator conducts the calculation of settlement payments as stipulated in Section 4.2 shall form part of the Net Settlement Amount to be allocated by the Settlement Administrator to Eligible Claimants pursuant to Section 4.2 above. All interest earned on the Settlement Fund Amount after that date shall form part of the Unclaimed Balance.

6.5.2 Subject to Section 6.5.3, all taxes payable on any interest that accrues on the Settlement Fund Amount shall be paid from the Settlement Fund Amount. The Settlement Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Fund in the escrow account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Fund Amount shall be paid from the Settlement Fund Amount in the escrow account. The Settlement Administrator is entitled to withhold from the Settlement Fund Amount prior to disbursement of the Net Settlement Amount to Eligible Claimants an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants with any remainder after payment of taxes to form part of the Unclaimed Balance.

6.5.3 GM shall have no responsibility to make any filings relating to the escrow account and will have no responsibility to pay tax on any income earned by the Settlement Fund Amount or pay any taxes on the monies in the escrow account, unless this Settlement Agreement is terminated or invalidated, in which case the interest earned on the Settlement Fund Amount in the escrow account or otherwise

shall be paid to GM, which, in such case, shall be responsible for the payment of any taxes on such interest.

6.6 **Remainder Funds.** Should there be any Unclaimed Balance of the Net Settlement Amount, those funds shall be distributed from the escrow account by the Settlement Administrator in the following manner:

6.6.1 For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2, shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4.

6.6.2 Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4, shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

## 7. CLAIMS PROGRAM PROCESS AND ADMINISTRATION

7.1 The Claims Program shall commence with the acceptance of Claim Forms as soon as reasonably practicable after the Effective Date.

7.2 The Claim Form and Approval Notice shall be made available on the Settlement Website as soon as reasonably practicable following the Effective Date. The Settlement Administrator shall mail paper copies of the Claim Form and Approval Notice to Persons who request such copies.

7.3 Claimants may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by email, or physically by mail to the Settlement Administrator.

- 7.4 Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline in order for the Claimant to qualify as an Eligible Claimant. Claim Forms submitted electronically or postmarked after the Claims Deadline shall be rejected by the Settlement Administrator as untimely, shall not be reviewed, and shall not qualify as an Eligible Claim.
- 7.5 It is a fundamental condition of this Settlement and the intention of the Parties that all Recall repairs must be completed on a Subject Vehicle by an authorized GM dealer on or before the Final Recall Repair Date for a Claim to become an Eligible Claim, unless the Claimant establishes that they no longer have possession, custody, or control of the Subject Vehicle and, therefore, have no ability themselves to have the Recall repairs performed.
- 7.6 To become an Eligible Claimant with an Eligible Claim, a Settlement Class Member must:
- 7.6.1 Submit to the Settlement Administrator a completed Claim Form on or before the Claims Deadline, and any additional documentation the Settlement Administrator may thereafter require, to establish that:
- 7.6.1.1 The Claimant owned or leased a Subject Vehicle on or before the Recall Announcement Date of the applicable Recall (no Person may submit more than one claim per individual Subject Vehicle);
- 7.6.1.2 The Claimant is not an Excluded Person; and
- 7.6.1.3 If GM's records supplied to the Settlement Administrator show that all repairs have not been completed for any Recalls relating to the Subject Vehicle, and the Claimant is the current owner or lessee of the Subject Vehicle:
- (a) then, on or before the Final Recall Repair Date, all repairs have been completed by an authorized GM dealer for any Recalls relating to the Subject Vehicle; or

- (b) the Subject Vehicle is no longer in the Claimant's possession, custody, or control.

GM has the option, in its sole discretion, to determine whether or not the documentation provided with respect to this Section 7.6.1.3 is sufficient, and GM may, in its sole discretion, delegate any such determination to the Settlement Administrator, in which case GM has the right to audit the Settlement Administrator's determinations before the Net Settlement Amount is distributed to Eligible Claimants. If GM does not exercise these options in regard to any particular Claim, the Settlement Administrator shall determine the sufficiency of such documentation for that Claim.

- 7.7 The Settlement Administrator shall review all Claims to ensure that the Claimants provide information that demonstrates:

- 7.7.1 that the VIN supplied by the Claimant for their Subject Vehicle is included on a list of VINs of Subject Vehicles supplied by GM to the Settlement Administrator, which list shall be determinative;

- 7.7.2 that the Claimant is not an Excluded Person;

- 7.7.3 that the Claimant is a current or former owner or lessee of a Subject Vehicle on or before the applicable Recall Announcement Date; and

- 7.7.4 if the data supplied to the Settlement Administrator by GM indicates that the Recall repairs have not been completed on the Subject Vehicle, that the Claimant no longer has possession, custody, or control of the Subject Vehicle, or, if they have possession, custody or control of a Subject Vehicle, that the Recall repair(s) have been performed on the Subject Vehicle on or before the Final Recall Repair Date.

- 7.8 The Settlement Administrator has the right to request verification of claim eligibility, including verification of the purchase, ownership, lease or resale of Subject Vehicles, and completion of the Recall repairs by an authorized GM dealer.

If the Settlement Administrator determines that a Claimant has not sufficiently completed the Claim Form, or failed to submit all required or requested documentation, the Settlement Administrator shall send written notification to the Claimant identifying the missing information (including by e-mail where the Claimant selects e-mail as their preferred method of communication) (“**Deficiency Notice**”).

- 7.9 The Settlement Administrator shall send a Claimant a Deficiency Notice if it determines that additional information is required to complete, verify, or substantiate the Claim. Such information includes but is not limited to:
- 7.9.1 if the Claimant did not complete all sections of the Claim Form;
  - 7.9.2 if the Claimant submitted insufficient vehicle information on the Claim Form;
  - 7.9.3 if documentation is required to substantiate and/or verify the information contained in the Claim Form; and/or
  - 7.9.4 if the Claim Form is not signed.
- 7.10 The Claimant shall have thirty (30) days from the postmark date or email sent date of the Deficiency Notice to submit the requested information or documentation. If the Claimant does not timely submit their response on or before said thirty (30) days, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.11 The Settlement Administrator shall utilize data supplied by GM to determine whether the Recall repair(s) were performed on the Subject Vehicle. If the GM data indicates that the Recall repair(s) have not yet been performed and the Claimant is the current owner or lessee of the Subject Vehicle, the Settlement Administrator shall send a “**Recall Repair Deficiency Notice**” to the Claimant identifying the incomplete Recall repair(s) that must be completed by an authorized GM dealer on or before the Final Recall Repair Date. The Settlement Administrator may require confirmation and documentary proof (e.g. a repair order on an authorized GM

dealer's form) from the Claimant of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle, which must be on or before the Final Recall Repair Date, and the authorized GM dealer at which the outstanding Recall repair(s) were performed, or the Settlement Administrator may rely on updated data supplied by GM to verify that the Recall repair(s) have been completed on or before the Final Recall Repair Date.

- 7.12 A Claimant who receives a Recall Repair Deficiency Notice must obtain the outstanding Recall repair(s) for the Subject Vehicle on or before the Final Recall Repair Date, and, if requested by the Settlement Administrator, must submit to the Settlement Administrator documentary proof (e.g. a repair order on an authorized GM dealer's form) of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle and the authorized GM dealership at which the outstanding Recall repair(s) were performed on the Subject Vehicle on or before thirty (30) days after the Final Recall Repair Date. If the Claimant does not timely respond to the Recall Repair Deficiency Notice on or before said thirty (30) days after the Final Recall Repair Date, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.13 The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Program. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim to prevent actual or possible fraud and abuse and shall report any such fraud or abuse to Co-Lead Counsel, GM and to law enforcement authorities.
- 7.14 If the Settlement Administrator's review establishes that a Claim clearly demonstrates eligibility for a payment and is an Eligible Claim, the Settlement Administrator shall approve the Claim and process it in accordance with Section 4.3, including determining to which Subclass(es) the Eligible Claimant belongs and the amount of the payment to the Eligible Claimant. With the exception of the options granted to GM in Section 7.6.1.3, the decisions of the Settlement



Administrator with respect to the eligibility or ineligibility of any Claim and amount of payment shall be final and binding on a Claimant and all Parties with no right of appeal to any court.

- 7.15 As soon as practicable following the Final Recall Repair Date plus any required cure period for deficiencies, the Settlement Administrator shall report to Co-Lead Counsel and GM the particulars of the proposed distribution of settlement payments to Eligible Claimants. No distribution of settlement monies from the escrow account shall occur without the express written approval of both Co-Lead Counsel and GM. The Settlement Administrator shall distribute settlement payments to Eligible Claimants as soon as practicable following the express written approval of both Co-Lead Counsel and GM.
- 7.16 The Settlement Administrator shall pay an Eligible Claim via issuance of a cheque sent by regular mail to the mailing address provided by the Eligible Claimant or by direct deposit to the bank account provided by the Eligible Claimant. Cheques not cashed by an Eligible Claimant within one-hundred and eighty (180) days of issuance will become stale-dated, not eligible for redemption and form part of the Unclaimed Balance. There will be no obligation to reissue stale-dated cheques.
- 7.17 Upon the completion of the Claims Program, Claimants shall be able to view the Settlement Website or otherwise contact the Settlement Administrator for information about their Claim.
- 7.18 The Settlement Administrator shall prepare periodic reports on the progress and status of the Claims Program that shall be provided to GM and Co-Lead Counsel. Unless otherwise reasonably requested by GM or Co-Lead Counsel, the Settlement Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter until one-hundred and eighty (180) days after the issuance of payments to Eligible Claimants. These reports shall include information sufficient to allow GM and Co-Lead Counsel to assess the Claims Program's progress. The Parties may request that the Settlement

Administrator include specific information within the reports to facilitate the assessment of the Claim Program's progress.

7.19 When the Claims Program is concluded, the Settlement Administrator is to provide a final report to the Courts, GM and Co-Lead Counsel, detailing the number of Eligible Claimants that received benefits under the Settlement, the total value of those benefits in each Subclass and the individual payments to be made to each Eligible Claimant in each Subclass. After one-hundred and eighty (180) days have passed since the issuance of payments to Eligible Claimants, the Settlement Administrator is to promptly provide a report to GM and Co-Lead Counsel including an accounting of the Unclaimed Balance.

7.20 No materials submitted by any Claimant will be returned to such Claimant. The Settlement Administrator shall be permitted to dispose of any materials submitted by a Claimant after the conclusion of the Claims Program.

7.21 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating Claims and paying Eligible Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary, to the Settlement Administrator, GM, Co-Lead Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by GM to comply with obligations to regulators in Canada. The Settlement Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information.

## **8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT**

8.1 The Parties agree to collaborate and cooperate regarding the form and content of all proposed orders submitted to the Courts in the Actions and to the courts in the

Related Actions. The form and content of all such proposed orders shall be approved by the Parties before they are submitted to a court.

- 8.2 Subject to the termination rights set out in Section 13, the Parties and their successors, assigns, and counsel agree to use best and good faith efforts to obtain prompt approval of this Settlement Agreement by the Courts without modification.
- 8.3 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “F”**, announcing this Settlement following the entry of the Certification Orders by both Courts.
- 8.4 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “G”**, providing a reminder to Settlement Class Members to file Claims following the entry of the Approval Orders by both Courts and before the Claims Deadline.
- 8.5 Aside from such joint or respective press releases, neither the Parties nor Actions Counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement, unless otherwise agreed to in writing by the Parties.
- 8.6 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.7 The Parties agree to cooperate and make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the Administration Expenses, are reasonable.
- 8.8 The Parties and their successors, assigns, and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving

any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for GM and Co-Lead Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Settlement Administrator.

- 8.9 In the event that the Parties are unable to reach an agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, GM and Co-Lead Counsel may seek the assistance of the Courts to resolve such matters.

## 9. NOTICE TO THE CLASS

- 9.1 **Notice Program.** The Notice Program utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Certification Orders. Following the entry of the Certification Orders, the Notice Program shall be effectuated in the manner directed and approved by the Courts. The Parties agree that the Notice Program and methods of notice therein described are valid and effective to provide practicable notice to the Settlement Class.
- 9.2 GM shall have no additional obligations to pay for any aspect of the Notice Program other than paying the Preliminary Administrative Expenses, and, if all conditions are met, the balance of the Settlement Fund Amount. The Parties shall have the right but not the obligation to monitor, inspect and audit the costs associated with the Notice Program.
- 9.3 **Settlement Class Information.** Based on customer contact information in GM's possession, to the extent such information was registered by customers with GM, GM will make reasonable efforts to compile a list of names, email addresses and mailing addresses of Settlement Class Members. This information shall be delivered to the Settlement Administrator prior to the date the Certification Notice is to be disseminated pursuant to the Notice Program.

9.4 If this Settlement Agreement is terminated or invalidated, all information provided by GM pursuant to Section 9.3 shall be destroyed forthwith, no record of the information so provided shall be retained by Actions Counsel or the Settlement Administrator in any form whatsoever.

9.5 The Parties will work co-operatively to leverage existing data which GM may have in its possession that can be used by the Settlement Administrator to find efficient ways to effect notice and assist Claimants in filling out Claim Forms, including, but not limited to (a) utilizing ownership and lessee data, including email, if available, to provide direct notice to Settlement Class Members; and (b) providing the data to the Settlement Administrator to “auto-populate” Claim Forms, to the extent possible in accordance with Canadian law and privacy obligations.

9.6 **Certification Notice.** Details regarding the Short-Form Certification Notice and a Long-Form Certification Notice are set forth below:

9.6.1 **Short-Form Certification Notice.** Short-Form Certification Notices in English and French shall be disseminated in accordance with the Notice Program. These Short-Form Certification Notices shall include details of where to access the Settlement Website on which English and French versions of the Long-Form Certification Notice shall be made available. The Short-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “B”**.

9.6.2 **Long-Form Certification Notice.** The Long-Form Certification Notice shall: (a) state that this Settlement Agreement is contingent upon entry of the Required Orders; (b) advise Settlement Class Members that they may elect to opt out of the Settlement Class by submitting an Opt-Out Form to the Settlement Administrator or the Clerk of the Superior Court of Québec, as applicable, on or before the Opt-Out Deadline; (c) advise Settlement Class Members that they may object to this Settlement Agreement by submitting an Objection Form to the Settlement Administrator or the Clerk of the Superior Court of Québec, as applicable, on or before the Objection Deadline; (d) advise that any Settlement

Class Member may enter an appearance at the Settlement Approval Hearing, including through counsel of their choice at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of their intention to opt out of the Settlement Class will be bound by the Approval Orders in the Actions, including the Settlement Class Release included therein. The Long-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “C”**. The Long-Form Certification Notice shall be posted on the Settlement Website and shall be emailed or mailed to any Person requesting a copy from the Settlement Administrator.

9.7 **Settlement Phone Number.** The Settlement Administrator shall establish and manage a Canadian toll-free phone number as soon as reasonably practicable after the entry of the Certification Orders which Settlement Class Members can call to receive automated information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining the Long-Form Certification Notice of this Settlement Agreement described in Section 9.6.2 or any other materials described in Section 9.6; (c) the Objection Deadline and Opt-Out Deadline; (d) how to submit a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Motion (the “**Settlement Phone Number**”). The information accessible through the Settlement Phone Number shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

9.8 **Settlement Website.** The Settlement Website shall be functional and accessible as soon as practicable after the entry of the Certification Orders. The domain name of the Settlement Website must be approved by the Parties in writing. The Settlement Website will have additional functionality to facilitate the submission of Claims as soon as reasonably practicable following the Effective Date. The Settlement Website shall include, in PDF format, content agreed upon by the Parties and/or as required by the Court, and shall inform Settlement Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information,

the precise content of which shall be subject to written approval of the Parties, including, but not limited to, the following information once known and/or existing:

9.8.1 The Opt-Out Deadline, the Objection Deadline, the Claims Deadline, and the Final Recall Repair Date;

9.8.2 The procedure for opting out of, or objecting to, the Settlement, including copies of the Objection Form and the Opt-Out Form;

9.8.3 The dates of the Settlement Approval Hearings;

9.8.4 Contact information for the Settlement Administrator including the Settlement Phone Number and an email address through which Settlement Class Members may send questions to the Settlement Administrator;

9.8.5 Copies of this Settlement Agreement with signatures redacted, the Certification Notice, the Approval Notice, the Certification Orders and the Approval Orders;

9.8.6 Instructions on how to obtain benefits under this Settlement;

9.8.7 A searchable VIN interface (i.e. VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;

9.8.8 A mechanism by which Claimants can electronically submit Claim Forms to pursue a Claim;

9.8.9 A mechanism by which Settlement Class Members can sign up to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy;

9.8.10 Any orders issued in the Actions or Related Actions relevant to this Settlement; and

9.8.11 Any other information the Parties determine is relevant to the Settlement.

9.9 **Settlement Approval Notice.** The Settlement Administrator shall disseminate the Approval Notice in English and French in accordance with the Notice Program. The Settlement Approval Notice shall: (i) advise Settlement Class Members that this Settlement Agreement has been approved by the Courts in the Approval Orders; and (ii) include details of how to make a Claim and where to access the Settlement Website. The Settlement Approval Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “D”**.

**10. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT**

10.1 Settlement Class Members residing outside of Québec who wish to opt-out of the Settlement Class shall submit an Opt-Out Form to the Settlement Administrator by mail, courier or email on or before the Opt-Out Deadline.

10.2 Settlement Class Members residing in Québec who wish to opt-out of the Settlement Class shall submit an Opt-Out Form to the following address by mail or courier on or before the Opt-Out Deadline:

Clerk of the Superior Court of Québec

Montréal Court house

Re: Michael Gagnon v. General Motors of Canada et. al.

500-06-000687-141 | 500-06-000729-158

1 Notre-Dame Street East, Room 1.120

Montréal, Québec H2Y 1B5

10.3 To be valid, Opt-Out Forms shall be personally signed by the purported Settlement Class Member and shall include the following:

10.3.1 The purported Settlement Class Member’s name, mailing address, telephone number, and e-mail address (if available);

10.3.2 Proof that the Person is a Settlement Class Member, including proof of the dates of ownership or lease of the Subject Vehicle and a statement that the Person is not an Excluded Person;



- 10.3.3 The make, model, model year, and VIN of the Person's Subject Vehicle;  
and
- 10.3.4 A statement that the purported Settlement Class Member elects to be excluded from the Settlement Class.
- 10.4 Settlement Class Members residing outside of Québec who wish to object to this Settlement shall submit an Objection Form to the Settlement Administrator by mail, courier or email on or before the Objection Deadline.
- 10.5 Settlement Class Members residing in Québec who wish to object to this Settlement shall submit an Objection Form to the following address by mail or courier on or before the Objection Deadline:

Clerk of the Superior Court of Québec

Montréal Court house

Re: Michael Gagnon v. General Motors of Canada et. al.

500-06-000687-141 | 500-06-000729-158

1 Notre-Dame Street East, Room 1.120

Montréal, Québec H2Y 1B5

- 10.6 To be valid, Objection Forms shall be personally signed by the purported Settlement Class Member and shall include the following:
- 10.6.1 The purported Settlement Class Member's name, mailing address, telephone number, and e-mail address (if available);
- 10.6.2 A statement affirming that the Person is not an Excluded Person;
- 10.6.3 The make, model, model year, and VIN of the Person's Subject Vehicle;
- 10.6.4 A brief statement of the nature of and reason for the objection to this Settlement; and

- 10.6.5 Whether the potential Settlement Class Member intends to appear in person or by counsel at a Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.
- 10.7 If a purported Settlement Class Member is deceased, a minor, or otherwise incapable of submitting an Opt-Out Form or Objection Form, as applicable, the Opt-Out Form or Objection Form, as applicable, must be submitted along with the contact information of the person acting on behalf of the purported Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the purported Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a purported Settlement Class Member, except in the circumstances set out in this Section.
- 10.8 Settlement Class Members who elect to opt out of the Settlement Class by submitting an Opt-Out Form may re-elect in writing to become Settlement Class Members, if their re-election request is received by the Settlement Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be members of the National Settlement Class or the Québec Settlement Class, or by written agreement of GM and Co-Lead Counsel.
- 10.9 Any Settlement Class Member who elects to opt out of the Settlement Class by submitting an Opt-Out Form may not also object to this Settlement Agreement and submit an Objection Form, subject to Section 10.8. If a Settlement Class Member elects to opt out of the Settlement Class and also objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 10.10 All Settlement Class Members who do not submit an Opt-Out Form on or before the Opt-Out Deadline will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Courts in the Approval Orders.

- 10.11 Any Settlement Class Member who submits an Objection Form shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved by the Courts in the Approval Orders, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of a Claim and other requirements herein.
- 10.12 The Settlement Administrator shall provide copies of all Opt-Out Forms and Objection Forms to GM counsel and Co-Lead Counsel on a weekly basis after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes expense.
- 10.13 GM counsel or Co-Lead Counsel shall provide to the Settlement Administrator copies of all Opt-Out Forms or Objection Forms received from the Clerk of the Superior Court of Québec.
- 10.14 The Settlement Administrator shall, no later than seven (7) days before the Settlement Approval Hearings, provide to GM and Co-Lead Counsel and file with the Court an affidavit reporting on the number of Opt-Out Forms and re-elections received on or before the Opt-Out Deadline, compiling the Objection Forms received on or before the Objection Deadline, and to the extent possible by utilizing the data received from GM, detailing whether the Settlement Class Member submitting the Opt-Out Form or Objection Form is a member of the National Settlement Class or the Québec Settlement Class.
- 10.15 The Parties have agreed to a confidential number of Opt-Outs, and will provide this number to both Courts in a document to be kept under seal by both Courts pursuant to the Parties' joint request until the Settlement Approval Hearings. If the number of Opt-Outs is greater than the confidential number agreed to by the Parties, then GM shall have the unilateral right, but not the obligation, to terminate this Settlement Agreement. GM shall advise the Courts and Co-Lead Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Settlement Administrator referred to in Section 10.14. In such event,

this Settlement Agreement shall be null, void, of no force or effect, and may not be offered or received into evidence or utilized for any other purpose in the Actions, Related Actions or in any other claim, action, suit or proceeding.

## 11. SETTLEMENT CLASS MEMBERS' RELEASE

11.1 The Parties agree that the Settlement Class Members' Release as set forth in this Section 11 inclusive of 11.1 to 11.17, shall take effect upon the Effective Date.

11.2 It is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only.

11.3 In consideration of this Settlement Agreement inclusive of the valuable consideration from GM set forth herein at Sections 4, 5, 6, 11 and elsewhere, effective automatically as of the Effective Date, the Releasing Parties fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, arbitrations, mediations, liabilities, suits, petitions, rights, damages and causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any and all Released Parties, arising out of, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls (individually and collectively, the "**Released Claims**"). Released Claims include, without limitation, any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, derivative or direct, asserted or un-asserted, whether or not concealed or hidden, due to, resulting from, connected with, or involving or

relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls, including without limitation (a) any claims that were or could have been asserted in the Actions or Related Actions or were the subject matter of the Actions, the Related Actions, or the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, loss of use or enjoyment (due to alleged mental/emotional/psychological distress, anxiety, fear or otherwise), sale, lease and/or resale of the Subject Vehicles or alleged mental/emotional/psychological distress, anxiety, or fear not attributable to a motor vehicle accident involving a Subject Vehicle; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary damages, liens, injunctive relief, counsel, expert, consultant, or other litigation fees or costs (other than the Settlement Fund Amount and Plaintiffs' Counsel Fee Amount to be awarded by the Courts in connection with this Settlement Agreement), and any other liabilities that were or could have been asserted in any civil, criminal, administrative, or other proceeding, including arbitration. Released Claims also include without limitation any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature on which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, tort, breach of contract, fraud, breach of statute, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the subject matter of the Actions, Related Actions, and/or Recalls.

- 11.4 Notwithstanding the foregoing, this Settlement Agreement does not release, and the definition of Released Claims does not include, any individual claims for wrongful death, personal injury (and related family/dependent claims) or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but does release, and the definition of Released Claims does include, class or

representative claims for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. For the avoidance of doubt, a Settlement Class Member may pursue an individual claim or proceeding for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but a Settlement Class Member shall not threaten, commence, participate in (as a class member or otherwise), continue, or act as a class representative or in any representative capacity in, any class or representative claim, suit, action or proceeding involving such claims against any Released Party anywhere, and shall cause any such claim, suit, action or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.

- 11.5 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under this Settlement Agreement, and the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement. For the avoidance of doubt, Co-Lead Counsel and the Settlement Class Representatives expressly understand and acknowledge that they and/or other Releasing Parties may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions, the Related Actions, the Recalls and/or the Settlement Class Members' Release. Nevertheless, it is the intention of Co-Lead Counsel and the Settlement Class Representatives in executing or authorizing the execution of this Settlement Agreement and obtaining the Approval Orders that the Releasing Parties shall fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.

- 11.6 The Releasing Parties shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding, whether in Canada or elsewhere, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other Person, with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Members' Release. To the extent that the Releasing Parties have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, the Related Actions or the Recalls, whether in Canada or elsewhere, they shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.
- 11.7 If a Releasing Party commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal, provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Releasing Party's cost, be brought to an end, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all related costs and expenses, including legal costs and disbursements, from that Releasing Party arising as a result of that Releasing Party's breach of their obligations under this Settlement Class Members' Release and the Settlement Agreement, provided that the Released Party provides written notice to the Releasing Party of their alleged breach and an opportunity to cure the breach.
- 11.8 For the avoidance of doubt, each Releasing Party is prohibited from instituting, continuing, maintaining or asserting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any suit, action, proceeding, cause of action, claim, or demand against any Released Party or any other Person who may claim contribution, indemnity or other claims of relief over from any Released Party, in respect of any matter related to the Released Claims, and any such claim shall be immediately brought to an end consistent with

Section 14.1 and the Parties shall cooperate and request any court in which such claim is or has been commenced to order the immediate dismissal of same with prejudice. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.

- 11.9 Settlement Class Members expressly agree that this Settlement Class Members' Release, the Certification Orders and the Approval Orders are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Members' Release whether in Canada or elsewhere, without regard to whether any Settlement Class Member submits a Claim, has a Claim rejected by the Settlement Administrator, or receives any payment pursuant to this Settlement.
- 11.10 The Releasing Parties expressly waive, relinquish, release with prejudice, and covenant not to exercise, and shall be deemed to have waived, relinquished, released with prejudice, and covenanted not to exercise, any and all rights and/or claims that they may have under any law, statute, regulation, adjudication, quasi-adjudication, decision, administrative decision, common law principle, or any other theory or source, that would otherwise limit the effect of the Settlement Class Members' Release, including but not limited to any law that might limit a release to those claims or matters actually known or suspected to exist at the time of execution of the release.
- 11.11 The Settlement Class Members who are not Opt-Outs represent and warrant that they are the sole and exclusive owners and holders of any and all Released Claims released under this Settlement Agreement. The Settlement Class Members who are not Opt-Outs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, subrogated or encumbered, whether through insurance, indemnification, or otherwise, any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Actions, Related Actions, Recalls or their Released Claims, including without limitation, any claim for



benefits, proceeds, or value under the Actions, the Related Actions or due to the Recalls, and that they are not aware of any insurers, indemnitors, subrogees, or anyone other than themselves claiming any interest, in whole or in part, in the Actions, Related Actions, Recalls or their Released Claims or in any benefits, proceeds, or values to which they may be entitled under the Actions, Related Actions, Recalls or as a result of their Released Claims.

- 11.12 Without in any way limiting its scope, and except with respect to the Plaintiffs' Counsel Fee Amount, the Settlement Class Members' Release includes, by example and without limitation, a release of Released Parties by the Releasing Parties from any and all claims for counsel's fees, costs, expert fees, consultant fees, interest, litigation fees, costs or any other fees, costs and/or disbursements incurred by any lawyers, Co-Lead Counsel, Actions Counsel, Settlement Class Representatives or Settlement Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Settlement Class.
- 11.13 Any and all benefits paid by GM pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims of the Releasing Parties against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Members' Release. The Settlement Class Members' Release shall be irrevocably binding upon all Releasing Parties.
- 11.14 This Settlement Class Members' Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members who do not opt out, regardless of whether those Settlement Class Members submit a Claim, have their Claim rejected by the Settlement Administrator, or receive compensation under this Settlement Agreement.
- 11.15 Nothing in the Settlement Class Members' Release shall preclude any action to enforce the terms of this Settlement Agreement, or claims arising out of, based upon, relating to, concerning, or in connection with the interpretation or enforcement of the terms of this Settlement. Nothing in the Approval Orders shall

bar any action by any of the Parties to enforce or effectuate the terms of this Settlement Agreement and the Approval Orders.

11.16 The Settlement Class Representatives and Co-Lead Counsel hereby agree and acknowledge that this Section 11 was separately bargained for and constitutes a key, material term of this Settlement Agreement, and shall be reflected in the Approval Orders.

11.17 A Settlement Class Member shall fully indemnify the Released Parties and hold the Released Parties harmless for any breach by the Settlement Class Member of this Settlement Agreement including, without limitation, full indemnification of the Released Parties for all legal costs and disbursements incurred by the Released Parties to enforce this Settlement Agreement.

## **12. PLAINTIFFS' COUNSEL FEE AMOUNT**

12.1 Pursuant to motions brought before the Courts without any opposition from GM, Co-Lead Counsel shall seek the Plaintiffs' Counsel Fee Amount Orders. The monies awarded by the Courts through the Plaintiffs' Counsel Fee Amount Orders shall be the sole compensation paid by GM to all lawyers who represent any Person asserting economic loss claims pertaining to the Actions and the Related Actions. In no event and under no circumstances shall GM pay any amount in counsel fees and expenses greater than the Maximum Plaintiffs' Counsel Fee Amount.

12.2 Co-Lead Counsel agree and covenant that, regardless of any orders, judgments, decisions, awards, or any other basis, they shall not claim, seek, attempt to recover, accept, execute on, or collect on any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.

12.3 The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty (30) days after the Effective Date or the entry of both Plaintiffs' Counsel Fee Amount Orders. If the Required Orders do not become Final, the Effective Date is not achieved or both Plaintiffs' Counsel Fee Amount Orders are not entered, GM shall have no obligation to pay any of the Plaintiffs' Counsel Fee Amount.

12.4 The Plaintiffs' Counsel Fee Amount paid by GM to Co-Lead Counsel shall be allocated by Co-Lead Counsel among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Actions Counsel deem fit. The Settlement Agreement shall not be in any way affected by, nor shall any of the Released Parties have any liability for, any dispute that exists or later arises with respect to the distribution or allocation of the Plaintiffs' Counsel Fee Amount.

12.5 The proceedings related to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount are to be considered separately from the Courts' approval of the Settlement. The Plaintiffs' Counsel Fee Amount Orders are to be separate and distinct from the Approval Orders so that any appeal from the Plaintiffs' Counsel Fee Amount Orders shall not constitute an appeal of the Approval Orders. Any order or proceedings relating to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount, or any appeal from the Plaintiffs' Counsel Fee Amount Orders, or reversal or modification thereof, shall not operate to terminate, cancel, or modify this Settlement Agreement, or affect or delay the entry of the Required Orders.

### **13. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

13.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and, if necessary, approval by the Courts, provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class Members or approval by the Court if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.

- 13.2 GM shall have the right, in its sole discretion, to terminate this Settlement Agreement in the event any of the following conditions occur: (a) one or more of the Required Orders are not entered or do not become Final; (b) the Plaintiffs' Counsel Fee Amount Orders award a Plaintiffs' Counsel Fee Amount in excess of the Maximum Plaintiffs' Counsel Fee Amount; (c) any portion or provision of the Settlement Class Members' Release detailed in Section 11 is held in whole or in part to be invalid, illegal or unenforceable in any respect; (d) more than a confidential number of Settlement Class Members opt out of the Settlement as provided for in Section 10.15; and/or (e) the confidentiality provision stipulated in Section 15.13 of this Settlement Agreement is violated.
- 13.3 This Settlement Agreement shall terminate at the discretion of GM, or the Settlement Class Representatives, through Co-Lead Counsel, if: (a) a court, or any appellate court therefrom, rejects, nullifies, modifies, refuses to enforce, or denies approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline); or (b) a court, or any appellate court therefrom, does not enter or completely affirm, or alters, nullifies, narrows, expands, or refuses to enforce, any portion of the Required Orders (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline). The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other Parties no later than twenty (20) business days after receiving notice of the event prompting the termination.
- 13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13, neither GM nor the Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.
- 13.5 If this Settlement Agreement is terminated pursuant to this Section 13, then:
- 13.5.1 the Parties shall be returned to their positions *status quo ante* with respect to the Actions and Related Actions;

13.5.2 this Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of 5.5, 6.5.3, 7.21, 9.4, 11.16, 11.17, 15.1, 15.2, 15.10 and 15.13, and the definitions and any exhibits and schedules applicable thereto;

13.5.3 no motion or application to certify or authorize an Action or Related Action as a class action on the basis of the Settlement Agreement shall proceed;

13.5.4 any order certifying or authorizing an Action as a class action on the basis of the Settlement Agreement, and any other settlement-related orders or judgments entered in the Actions after the date of execution of this Settlement Agreement, shall be null and void and shall have no force or effect and the Parties shall cooperate with each other to carry out any necessary changes in court files to give effect to this provision;

13.5.5 all of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of GM, the Settlement Class Representatives, and any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

13.5.6 the Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defences, arguments, and motions as to all causes of action and claims that have been or might later be asserted in the Actions or Related Actions, including, without limitation, the argument that the Actions or Related Actions may not be litigated as class actions;

13.5.7 the Settlement Class Representatives, and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions or Related Actions

including, without limitation, any argument concerning class certification/authorization, liability, or damages;

13.5.8 neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;

13.5.9 within ten (10) business days, Actions Counsel shall return, or cause to be returned, to GM any and all amounts paid in respect of the Plaintiffs' Counsel Fee Amount and the Settlement Administrator shall return, or cause to be returned, to GM any unearned or unspent portion of the Settlement Fund Amount or Preliminary Administrative Expenses; and

13.5.10 within ten (10) business days, Actions Counsel and the Settlement Administrator shall destroy all non-public information provided to them by GM in connection with this Settlement and its negotiation and, to the extent Actions Counsel and/or the Settlement Administrator have disclosed any non-public information provided by GM in connection with this Settlement Agreement, Actions Counsel and/or the Settlement Administrator shall recover and destroy such information. Actions Counsel and the Settlement Administrator shall provide GM with a written certification of such destruction.

#### **14. TERMINATION OF ACTIONS AND JURISDICTION OF THE COURTS**

14.1 Co-Lead Counsel and GM agree to cooperate and take all steps as are necessary to give effect to this Settlement Agreement and to bring a final end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions, the Related Actions and in any other pending or future litigation in any way related to the Released Claims. The Parties agree that the conclusion of any litigation as set out in this Section 14 shall not alter, negate or otherwise have any impact or effect on the Settlement Class Members' Release.

- 14.2 The Courts shall retain exclusive jurisdiction over any Discontinuance Order, Amendment Order, Certification Orders, Approval Orders, and Plaintiffs' Counsel Fee Amount Orders issued in the Actions commenced in their respective jurisdictions. The Ontario Superior Court of Justice shall retain ongoing and exclusive jurisdiction to resolve any dispute that may arise in relation to the validity, performance, interpretation, enforcement, enforceability, or termination of this Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section 14, except that any dispute specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.
- 14.3 If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.
- 14.4 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

## **15. OTHER GENERAL TERMS AND CONDITIONS**

- 15.1 This Settlement Agreement makes no factual findings or conclusions of law. It is agreed that, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or

allegations contained in the Actions, the Related Actions or in any pleading or civil, criminal, regulatory or administrative proceeding filed against any Released Party. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense. GM has denied and continues to deny each and all of the claims and contentions alleged in the Actions and the Related Actions, and has denied and continues to deny that GM has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Actions or the Related Actions. GM believes that it has valid and complete defenses to the claims asserted in the Actions and the Related Actions, and denies that GM committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Actions or the Related Actions. GM further believes that no class could be certified/authorized or maintained for litigation or for trial. Nonetheless, GM has concluded that it is desirable that the Actions and the Related Actions be fully and finally settled on the terms and conditions set forth in this Settlement Agreement.

- 15.2 It is agreed that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.
- 15.3 This Settlement Agreement shall be binding upon, and enure to the benefit of GM, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.



- 15.4 The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.
- 15.5 The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Co-Lead Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Members' Release, and the legal effect of this Settlement Agreement and the Settlement Class Members' Release.
- 15.6 Co-Lead Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement, to recommend the approval of this Settlement Agreement to the Courts, and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.
- 15.7 Co-Lead Counsel represent that (a) Co-Lead Counsel are authorized by the plaintiffs in the Actions and the Related Actions to enter into this Settlement Agreement; and (b) Co-Lead Counsel are seeking to protect the interests of the Settlement Class.
- 15.8 Co-Lead Counsel further represent that the Settlement Class Representatives: (a) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (b) are willing, able, and ready to perform all of the duties and obligations of representatives of the Settlement Class; (c) have authorized Co-Lead Counsel to execute this Settlement Agreement on their behalf; and (d) shall remain and serve as representatives of the Settlement Class and Subclasses until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Settlement Class Representatives cannot represent the Settlement Class.

- 15.9 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior, subsequent or concurrent breach of this Settlement Agreement.
- 15.10 If the Effective Date does not occur, or the Settlement is terminated pursuant to Section 13, then this Settlement Agreement, and the certification of the Settlement Class (and Subclasses) provided for herein, shall be vacated and the Actions and Related Actions shall proceed as though the Settlement Class (and Subclasses) had never been certified, without prejudice to any Party's position on the issue of class certification/authorization or any other issue. The Parties shall cooperate with each other to carry out the necessary changes in court files to give effect to this provision.
- 15.11 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.
- 15.12 The Parties reserve the right to agree in writing to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 15.13 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties. Information provided by GM, Co-Lead Counsel, Actions Counsel, any individual Settlement Class Member, or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and confidential and proprietary business information, shall be kept strictly confidential, except as may be expressly

required (i) by law, (ii) by applicable provincial rules of professional responsibility, (iii) order of a court of competent jurisdiction over disclosing party's objection and after at least twenty-one (21) days prior written notice to GM and its counsel and a reasonable opportunity to intervene, (iv) with the express written consent of GM, directly or through its counsel, or (v) as otherwise described in this Settlement Agreement. In no circumstances shall any confidential information be disclosed for any reason without GM's prior written authorization.

- 15.14 The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the motions for the Certification Orders are filed; provided, however, that this Section shall not prevent GM from disclosing such information, prior to that date, to provincial and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, or if required by law or regulation. Nor shall the Parties and their counsel be prevented from disclosing such information to persons or entities (such as experts, courts, legal counsel, and/or administrators) to whom the Parties agree in writing disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.
- 15.15 The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.
- 15.16 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. If requested by the Québec Court, a translation

firm selected by Co-Lead Counsel shall prepare a French translation of this Settlement Agreement after its execution. The Parties agree that such translation is for convenience only. The cost of such translation shall be paid from the Settlement Fund Amount as a Preliminary Administrative Expense or Administrative Expense. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.

- 15.17 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to GM, then to:	Cheryl Woodin or Michael Smith BENNETT JONES LLP 3400 One First Canadian Place 100 King Street West Toronto, ON M5X 1A4 E-mail: woodinc@bennettjones.com smithmc@bennettjones.com
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If to the Settlement Class Representatives or Settlement Class, then to:	Won J. Kim KIM SPENCER McPHEE BARRISTERS P.C. 1203-1200 Bay Street Toronto, ON M5R 2A5 E-mail: wjk@complexlaw.ca
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AND	Joel P. Rochon ROCHON GENOVA LLP 121 Richmond Street West, Suite 900 Toronto, ON M5H 2K1 E-mail: jrochon@rochongenova.com
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- 15.18 The Settlement Class, Settlement Class Representatives and GM shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.

- 15.19 The division of this Settlement Agreement into Sections and the insertion of topic and Section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 15.20 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with legal counsel and the assistance of The Honourable Justice Thomas Cromwell as mediator.
- 15.21 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 15.22 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if necessary, the aid of the Court(s) and/or, by agreement of GM and Co-Lead Counsel.
- 15.23 The Parties represent and warrant that the individuals executing this Settlement Agreement are authorized to enter into this Settlement Agreement on their behalf.
- 15.24 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 15.25 The Parties have executed this Settlement Agreement as of the date on the cover page.

Counsel for GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA  
COMPANY

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## Schedule "A" – General List of Subject Vehicles\*

	<b>Make and Model</b>	<b>Years</b>
<b>Delta Ignition Switch Recall</b>  (Transport Canada Recall Numbers 2014-038, 2014-060, 2014-101)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2006-2011
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac Solstice	2006-2010
	Saturn Ion	2003-2007
	Saturn Sky	2007-2009
<b>Key Rotation Recall</b>  (Transport Canada Recall Numbers 2014-246, 2014-273, 2014-284)	Buick Allure	2005-2009
	Buick Lucerne	2006-2011
	Buick Regal	2004
	Cadillac CTS	2003-2014
	Cadillac Deville	2000-2005
	Cadillac DTS	2006-2011
	Cadillac SRX	2004-2006
	Chevrolet Impala	2000-2013
	Chevrolet Monte Carlo	2000-2007
	Chevrolet Malibu	1997-2005
	Oldsmobile Alero	1999-2004
	Oldsmobile Intrigue	1998-2002
	Pontiac Grand Am	1999-2005
	Pontiac Grand Prix	2004-2008
<b>Camaro Knee-Key Recall</b>  (Transport Canada Recall Number 2014-243)	Chevrolet Camaro	2010-2014
<b>Electric Power Steering Recall</b>  (Transport Canada Recall Number 2014-104)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2009-2010
	Chevrolet Malibu	2004-2006 and 2008-2009
	Chevrolet Malibu Maxx	2004-2006
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac G6	2005-2006 and 2008-2009
	Saturn Aura	2008-2009
	Saturn Ion	2004-2007

\*Of the above general list, only those vehicles with a Vehicle Identification Number that is included in the Recall(s) are included as Subject Vehicles.

**NOTICE OF CANADIAN CLASS ACTIONS CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**GM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering  
Economic Settlement Information**

**If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*Pour une notice en Français, visitez [www.GMIgnitionSwitchSettlement.ca/fr](http://www.GMIgnitionSwitchSettlement.ca/fr)*

**The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights.** You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) (collectively, “**GM**”) deny these allegations.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>Who Is Included?</b>	The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to <a href="http://www.GMIgnitionSwitchSettlement.ca">http://www.GMIgnitionSwitchSettlement.ca</a> or call 1-888-995-0291, to see if your GM vehicle is covered by the Settlement.
<b>What Does the Settlement Provide?</b>	If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible settlement class members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These <i>class</i> claims have been discontinued from the class actions, but any such <i>individual</i> claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.
<b>Option 1: Participate in the Settlement – Do nothing for now</b>	If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.
<b>Option 2: Opt out of the Settlement</b>	You may <b>opt-out</b> of the Settlement, in which case you will <u>not</u> be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-out form (see below) must be sent by <b>July 19, 2024</b> . You may not opt out <i>and</i> object.

	<b>IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.</b>	
<b>Option 3: Object to the Settlement</b>	If you do not opt-out and if you do not like the settlement, you may <b>object</b> to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by <b>July 19, 2024</b> .	
<b>Opt-Out Form, Objection Form and their submission</b>	The opt-out form, objection form and further information are available at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> . <u>Non-Québec residents</u> should send their opt-out form or objection form to the Settlement Administrator (see below). <u>If you are a Québec resident</u> , your objection or opt-out form should be sent to the following address:  Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5	
<b>Approval Hearings</b>	The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs' counsel fees and expenses will take place before the Ontario Superior Court of Justice on July 30, 2024 at 10:00 a.m. eastern time (virtual only); and the Superior Court of Québec on July 31, 2024 at 9.30 a.m. eastern time (virtual or in-person). When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at <a href="http://www.GMIgnitionSwitchSettlement.ca">http://www.GMIgnitionSwitchSettlement.ca</a> . You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.  You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.	
<b>YOU MAY SEEK ADDITIONAL INFORMATION</b>		
<b>Contact Class Counsel</b>	Rochon Genova LLP Attention: Jon Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-800-462-3864 or local (416) 363-1867	Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414
<b>Settlement Website</b>	See <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> for the Long-Form Notice, <a href="#">important documents</a> and forms, answers to common questions and other detailed information to help you.	
<b>Settlement Administrator</b>	The Settlement Administrator can be reached by email at <a href="mailto:info@GMIgnitionSwitchSettlement.ca">info@GMIgnitionSwitchSettlement.ca</a> , by telephone at 1-888-995-0291, or by mail at:  GM Ignition Switch Economic Settlement c/o JND Legal Administration PO Box 8111 Vancouver Main Vancouver, BC V6B 4E2	

Ontario Superior Court of Justice / Superior Court of Québec

**NOTICE OF CLASS ACTION CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**If You Are a Current or Former Owner or Lessee of a GM  
Vehicle that was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below),  
your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you that the Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current and former owners or lessees of certain GM vehicles that were recalled in 2014 (the “**Settlement**”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.
- The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment

amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.

- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for **July 30, 2024 at 10:00 a.m.** (Eastern Time) before the Ontario Superior Court of Justice (virtual only) and for **July 31, 2024 at 9:30 a.m.** (Eastern Time) before the Superior Court of Québec (virtual or in-person). These hearings are public. When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• <b><u>The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.</u></b></li> <li>• At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending. If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member will have to complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</li> <li>• Settlement Class Members will be able to complete their claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>.</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<b>Exclude Yourself or “Opt Out”</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at</li> </ul>

	<p>their own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.</p> <ul style="list-style-type: none"> <li>Your request to opt out must be received by <b>July 19, 2024</b>. Non-Québec residents may send their opt out request to the Settlement Administrator. Québec residents should send their opt out request to the following address: <ul style="list-style-type: none"> <li>Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5.</li> </ul> </li> <li>More information about how to opt out of the Settlement can be found in paragraph 8 below and at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>. An opt-out form is available on this website.</li> </ul>
<p><b>Object</b></p>	<ul style="list-style-type: none"> <li>Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by <b>July 19, 2024</b>. Non-Québec residents should send their objections to the Settlement Administrator. Québec residents should send their objections to the following address: <ul style="list-style-type: none"> <li>Clerk of the Superior Court of Québec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5.</li> </ul> </li> <li>Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be bound by any Court-approved Settlement even though they objected to it.</li> <li>More information about how to object can be found in paragraph 10 below and at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>. An objection form is available on this website.</li> </ul>
<p><b>Go to the Hearing</b></p>	<ul style="list-style-type: none"> <li>To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on <b>July 30, 2024</b> at 10:00 a.m. (Eastern Time) before the Ontario Superior Court of Justice (virtual only) and on <b>July 31, 2024</b> at 9:30 a.m. (Eastern Time) before the Superior Court of Québec (virtual or in-person). When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>.</li> </ul>

	<ul style="list-style-type: none"><li>• The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings if they choose to do so (not required).</li></ul>
<b>Do Nothing</b>	<ul style="list-style-type: none"><li>• Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li><li>• Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.</li></ul>

## WHAT THIS NOTICE CONTAINS

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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes. It also provides information about the Settlement, which pertains to all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the

Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (**VINs**) provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14299	2014-246	

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [www.gmignitionswitchsettlement.ca](http://www.gmignitionswitchsettlement.ca) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [www.GMignitionSwitchSettlement.ca](http://www.GMignitionSwitchSettlement.ca) to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with

multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

**CONDEMN** Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

### **C. THE TERMS OF THE SETTLEMENT AGREEMENT**

#### **4. What am I giving up under the Settlement Agreement?**

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “**Released Parties**”).

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). The Settlement Agreement describes the Released Claims

in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## **5. What might I be receiving under the Settlement Agreement?**

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### **i. The Settlement Fund Amount**

In exchange for Settlement Class Members' release of the Released Claims, there will be a CA\$12 million settlement fund established (the "**Settlement Fund Amount**"). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### **ii. How will payments for eligible claims be allocated?**

A "Net Settlement Amount" shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### **iii. How do I get a payment from the Net Settlement Amount?**

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or by mail to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

### 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“**Co-Lead Counsel**”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP  Attention: Jon Sloan  jsloan@rochongenova.com  Tel: 1-800-462-3864 or local (416) 363-1867  121 Richmond Street West  Suite #900  Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee  mbm@complexlaw.ca  Tel: (416) 596-1414  1203-1200 Bay Street  Toronto, ON M5R 2A5</p>
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### 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs’ Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs’ Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor in Québec (see below) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending an opt out form by mail, courier, or e-mail so that it is received on or before **July 19, 2024**.



The opt out form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and an attestation that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s); and
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s).

An opt-out form is available on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

For **non-Québec residents**, the opt out form should be sent to the Settlement Administrator through email to [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca), or by mail or courier to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2.

**If you are a Québec resident, your opt out form should be sent to the following address:**

Clerk of the Superior Court of Québec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

## **9. What happens if I opt out/exclude myself from the Settlement Class?**

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## **F. OBJECTING TO THE SETTLEMENT**

### **10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?**

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. The Québec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada.

To object, **non-Québec residents** must deliver an objection form to the Settlement Administrator by email to [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca) or by courier or mail to GM Ignition Switch Economic Settlement, c/o JND Legal Administration, PO Box 8111, Vancouver Main, Vancouver, BC V6B 4E2 so that it is received on or before July 19, 2024.

**If you are a Québec resident, your objection form should be sent by July 19, 2024 to the following address:**

Clerk of the Superior Court of Québec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

An objection form is available on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.



## G. INTERVENOR STATUS

### 11. Can I intervene as a party in the file?

Note that Québec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Québec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Québec Settlement Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Québec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.

## H. THE APPROVAL HEARINGS IN COURT

### 12. When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on **July 30, 2024 at 10:00 a.m.** (Eastern Time) (virtual only); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Québec H2Y 1B6 on **July 31, 2024 at 9:30 a.m.** (Eastern Time) (virtual or in-person).

When available, the Teams/Zoom links for virtual attendance at the Settlement Approval Hearings will be posted at [www.GMIgnitionSwitchSettlement](http://www.GMIgnitionSwitchSettlement). Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or call 1-888-995-0291 for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Québec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval

decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final and when the claims period will start. Please check the Settlement Website [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

**13. Do I have to go to the hearings?**

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to attend the hearings at your own expense.

If you object by sending an objection form, you do not have to come to court to talk about it. So long as you sent your objection form on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. May I speak at the hearings?**

Yes. If you submitted a proper objection form, you or your lawyer may, at your own expense, attend the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

**I. IF YOU DO NOTHING**

**15. What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## J. GETTING MORE INFORMATION

### 16. How do I get more information about the Settlement?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>		
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to <a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a> , where you will find answers to common questions and other detailed information to help you.	
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call 1-888-995-0291.	
<b>CONTACT CLASS COUNSEL</b>	Rochon Genova LLP  Attention: Jon Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-800-462-3864 or local (416) 363-1867  121 Richmond Street West Suite #900 Toronto, ON M5H 2K1	Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414  1203-1200 Bay Street Toronto, ON M5R 2A5

**Schedule “D” - Approval Notice**

**LEGAL NOTICE OF COURT APPROVAL OF GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY AND ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

A nationwide class settlement of economic loss claims by persons who owned or leased a GM vehicle subject to one of the following recalls on or before the recall announcement date has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec:

	<b>Make, Model and Model Year*</b>	<b>GM Recall Number</b>	<b>Transport Canada Recall Number</b>	<b>Recall Announcement Date</b>
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue	14299	2014-246	
	1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement. Visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to see if your vehicle qualifies.

## BENEFITS FOR SETTLEMENT CLASS MEMBERS

A CA\$12-million settlement fund has been established, which will be distributed to Settlement Class Members as follows:

- (i) members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses; and
- (ii) members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses.

An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments.

Following the submission of claims and deduction of administrative expenses, taxes and any honoraria payments from the settlement fund, the individual payments to be made to members of each subclass shall be published at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

The Courts [**have approved**] [**OR will in the future approve**] legal fees to plaintiffs' counsel (up to a maximum of \$4,397,500.00). Those amounts will be paid separately and will not reduce the settlement benefits.

### HOW DO I MAKE A CLAIM?

- To receive money from this Settlement, you must submit a completed Claim Form by [**date**].
- You may submit a Claim Form online through [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).
- Alternatively, you may complete a paper Claim Form available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) and submit your Claim Form by mail or courier to the address indicated on the Claim Form.

**TO OBTAIN MORE INFORMATION, VISIT  
WWW.GMIGNITIONSWITCHSETTLEMENT.CA OR CALL 1-888-995-0291.**

**YOU MAY ALSO CONTACT LAWYERS FOR THE SETTLEMENT CLASS AT:**

<p>Rochon Genova LLP</p> <p>Attention: Jon Sloan  <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a>          Tel: 1-800-462-3864 or local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee  <a href="mailto:mbm@complexlaw">mbm@complexlaw</a>          Tel: (416) 596-1414</p>
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## Schedule “E” – Claim Form

**GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

**CLAIM FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

**INSTRUCTIONS FOR SUBMITTING A CLAIM FORM**

Please review the following instructions before proceeding.

**ELIGIBILITY:**

You are a Settlement Class Member and eligible to submit this Claim Form **only if** you are not an Excluded Person (see Section I below), and you:

1. Currently own or lease a **Subject Vehicle** and (a) you owned or leased it **on or before** the **Recall Announcement Date** and (b) your vehicle has either already had the applicable Recall repair(s) performed, or you will now have the Recall repair done (for free) by an authorized GM dealer. The Recall repair(s) must occur on or before the **Final Recall Repair Date**, which is [● date]; **or**
2. Formerly owned or leased a **Subject Vehicle on or before** the **Recall Announcement Date**. Certain former owners or lessees of a Subject Vehicle may need to provide documentation (or, if you don't have documentation, make a signed solemn declaration as described below) showing that you are no longer in the possession, custody or control of the Subject Vehicle.

\*See below for how to find out if you own(ed) or lease(d) a **Subject Vehicle** and, if so, the **Recall Announcement Date**, applicable **Recall(s)** and status of the Recall repair(s).

**WHAT TO DO BEFORE COMPLETING THIS CLAIM FORM:**

1. Locate the vehicle identification number (“VIN”) for the GM vehicle that you own(ed) or lease(d).

2. Enter your VIN on the Settlement Website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to find out if the GM vehicle that you own(ed) or lease(d) is a **Subject Vehicle**, and if so, the applicable **Recall(s)**, **Recall Announcement Date(s)**, and whether or not the Recall repair(s) have already been performed. (GM data for the VIN shall be dispositive as to whether the vehicle is a Subject Vehicle.)
3. Ensure that you are **not** an Excluded Person (see Section I below).
4. Ensure that you owned or leased your Subject Vehicle on or before the **Recall Announcement Date**.

**COMPLETING & FILING A CLAIM FORM:**

1. Complete Sections I to IV below.
2. **Your completed Claim Form must be submitted electronically and/or postmarked on or before the Claims Deadline, which is [● date].**
3. You can submit your Claim Form as indicated below:
  - a. Electronically at: [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If you file online, certain information may be filled in for your vehicle, which you will need to confirm. You are encouraged to submit your Claim Form online for easy verification and processing.
  - b. By email to: [info@GMIgnitionSwitchSettlement.ca](mailto:info@GMIgnitionSwitchSettlement.ca), or
  - c. By mail to:

GM Ignition Switch Economic Settlement  
c/o JND Legal Administration  
PO Box 8111  
Vancouver Main  
Vancouver, BC V6B 4E2

**ONE CLAIM FORM PER SUBJECT VEHICLE:**

You must submit a separate Claim Form for each Subject Vehicle. If you own(ed) or lease(d) more than one Subject Vehicle on or before the applicable Recall Announcement Date(s) and you are not an Excluded Person, submit a separate Claim Form for each Subject Vehicle to be eligible for settlement payments for each Subject Vehicle.

**RECALL REPAIRS:**

If the Recall repair(s) have not been performed on your Subject Vehicle, and you are the current owner or lessee, you will need to bring your Subject Vehicle to an authorized GM dealer to

obtain the Recall repair(s) free of charge on or before the Final Recall Repair Date in order to be eligible for a settlement payment.

**SUPPORTING DOCUMENTATION MAY BE REQUESTED:**

Please be advised that the Settlement Administrator is authorized to require supporting/supplemental documentation from any person submitting a Claim Form. In order to ensure against fraud or to confirm your eligibility, the Settlement Administrator may request documentation or additional information from you, including requests for:

- a. proof you owned or leased the Subject Vehicle on or before the Recall Announcement date, such as the vehicle ownership, purchase or lease papers, or a solemn declaration with further details supporting your ownership or lease of the Subject Vehicle on or before the Recall Announcement Date;
- b. information confirming you are not an Excluded Person; and/or
- c. if the Recall repair(s) are not yet performed on your Subject Vehicle, confirmation you obtained the repair(s) from an authorized GM dealer.

If you receive an email or mailed notice from the Settlement Administrator seeking additional information, you will need to comply in order to be eligible for a settlement payment. You will be assigned a claim number by the Settlement Administrator once you submit your Claim Form. Include your claim number when submitting any requested supporting documentation.

**SETTLEMENT PAYMENT INFORMATION:**

The settlement payment amount for each eligible Claim will depend upon the number of eligible Claims submitted, which Recalls apply to your Subject Vehicle and to the Subject Vehicles for all other eligible Claims, as well as the Administrative Expenses (such as for settlement administration) as detailed in Sections 4 and 5 of the Settlement Agreement.

**SECTION I: Excluded Persons**

Certain individuals and entities are prohibited from being Settlement Class Members and receiving payment under this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;



- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\*The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

\*\*The determination of the Settlement Administrator as to whether you are an Excluded Person is dispositive; there is no appeal to a court. The Settlement Administrator will make this determination based upon data provided by the Parties, as well as any additional information/documentation that the Settlement Administrator may request from you.

**I CONFIRM THIS CLAIM IS NOT ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS**

**SECTION II: Information on Claimant and Subject Vehicle**

Owner/Lessee Last Name:

First Name:

Middle Initial:




**OR** Full Business Name of Owner/Lessee:

Vehicle Identification Number (VIN):

Make, Model, and Model Year of Vehicle:

Telephone Number:	Email Address:	
<input type="text"/>	<input type="text"/>	
Your Current Address (Number/Street/P.O. Box No.):		
<input type="text"/>		
City:	Province:	Postal Code:
<input type="text"/>	<input type="text"/>	<input type="text"/>
If you lived/operated at a different address when you owned or leased the Subject Vehicle than the current address provided above, please provide your Address at the time you owned or leased the Subject Vehicle for which you are submitting a Claim (Number/Street/P.O. Box No.):		
<input type="text"/>		
City:	Province:	Postal Code:
<input type="text"/>	<input type="text"/>	<input type="text"/>

**SECTION III: Check the Box below that applies to you and add the applicable date(s)**

**Check ONE Box below that applies to you and this claim and complete the requested fields.**

<input type="checkbox"/>	<p><b>I am the CURRENT owner or lessee of a Subject Vehicle and I purchased or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ____ / ____ / ____ (MM/DD/YYYY)</p>
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<input type="checkbox"/>	<p><b>I am a FORMER owner or lessee of a Subject Vehicle, and I owned or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ____/____/____ (MM/DD/YYYY)</p> <p>I sold/ended the lease of the Subject Vehicle on: ____/____/____ (MM/DD/YYYY)</p>
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#### SECTION IV: Attestation

By signing below I declare and affirm that the information in this court-ordered Claim Form is true and correct, that I can make this Claim, and have legal authority to submit this Claim Form. I understand that my Claim may be subject to audit, verification and review by the Settlement Administrator, the Ontario Superior Court of Justice and/or the Superior Court of Québec, and that I may be requested to provide additional information to support my claim. **I understand that submitting incorrect information may subject me to criminal and/or civil prosecution for fraud.**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

If you are signing on behalf of a Claimant, indicate your authority to sign, e.g., estate representative, power of attorney, legal guardian. If you are signing on behalf of an entity, indicate your job title.

\_\_\_\_\_

**Claim Forms must be electronically submitted or postmarked on or before the Claims Deadline, which is [● date].**  
**Questions? Visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) or call, toll-free, 1-888-995-0291.**

## **If You Owned or Leased a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement**

Seattle/May 20, 2024/PR Newswire

A proposed class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been submitted for approval to the Ontario Superior Court of Justice and the Superior Court of Quebec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering. The plaintiffs claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC ("New GM") and General Motors of Canada Company (formerly General Motors of Canada Limited) ("GM Canada") deny these allegations. The plaintiffs, New GM and GM Canada have agreed to a settlement to avoid the risk and cost of further litigation.

The proposed settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM's announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the settlement class. Go to [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca), or call 1-888-995-0291, to see if your GM vehicle is covered by the settlement.

If approved, the settlement fund will be CA\$12 million. Payment amounts to eligible settlement class members will vary depending on which recall applied to their vehicle, the amount of administrative expenses, taxes and any honoraria payments, and the number of settlement class members who file claims.

For details about the settlement, including the money that may be available to settlement class members, and your eligibility to file a claim and receive a payment, review the Long Form Notice and the Settlement Agreement available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If the settlement is approved, you will be required to submit a claim online or by mail on or before the deadline which will be posted on the website.

Settlement class members have other options too. The settlement will not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. However, if you want to keep your right to sue New GM, GM Canada and certain other released parties about the economic loss claims, you must exclude yourself from the class. If you exclude yourself, you cannot receive benefits provided by the settlement. Your exclusion request must be sent to the Settlement Administrator and postmarked on or before **July 19, 2024**. **IF YOU DO NOT EXCLUDE YOURSELF AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.** Get advice from your lawyer about deadlines for individual lawsuits.

If you stay in the settlement class, you may object to the settlement - that is, tell the Ontario

Superior Court of Justice or the Superior Court of Quebec why you don't like the settlement. Your objection must be postmarked or emailed on or before **July 19, 2024**. Information about how to exclude yourself or object to the settlement is available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

The Ontario Superior Court of Justice will hold a hearing on July 30, 2024 at 10:00 a.m. (Eastern Time) (virtual only), and the Superior Court of Quebec will hold a hearing July 31, 2024 at 9:30 a.m. (Eastern Time) (virtual or in-person), to consider whether to approve the settlement. You may appear at the hearings either yourself or through a lawyer hired by you, but you do not have to do so. Links to attend the hearings virtually will be posted at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) closer to the hearing dates.

The legal fees to be paid to plaintiffs' counsel may also be approved at the hearings to approve the settlement. New GM and GM Canada have agreed to pay the legal fees and expenses of plaintiffs' counsel up to a maximum amount of CA\$4,397,500.00 to be paid separately, that is, not to be deducted from the settlement fund, and which must be approved by the Courts.

For more information, call 888-995-0291 or visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may also contact lawyers for the Settlement Class at:

Rochon Genova LLP

Attention: Jon Sloan

[jsloan@rochongenova.com](mailto:jsloan@rochongenova.com)

Tel: 1-800-462-3864 or local (416) 363-1867

121 Richmond Street West

Suite 900

Toronto, ON M5H 2K1

Kim Spencer McPhee Barristers P.C.

Attention: Megan B. McPhee

[mbm@complexlaw](mailto:mbm@complexlaw)

Tel: (416) 596-1414

1203-1200 Bay Street

Toronto, ON M5R 2A5

## Schedule “G” - Reminder Press Release

**Eligible Owners or Lessees of GM Vehicles that were Subject to Certain 2014 Recalls, You Must File Your Settlement Claim before [date], 202[year].** A class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering.

The plaintiffs claimed that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) denied these allegations. The plaintiffs, New GM and GM Canada agreed to a settlement to avoid the risk and cost of further litigation. The settlement does not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage.

The settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the class.

Go to [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca) to see if your GM vehicle is covered by the settlement and if you are eligible to file a claim. All claims must be received electronically or by mail on or before [date], 202[year].

The settlement fund is CA\$12 million. Payment amounts to eligible settlement class members depend on which recall applied to their vehicle, the amount of administration expenses, taxes, and any honoraria payments, and the number of eligible settlement class members who file claims.

Learn more by calling 1-888-995-0291 or visiting [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

You may also contact lawyers for the Settlement Class at:

Rochon Genova LLP  
Attention: Jon Sloan  
[jsloan@rochongenova.com](mailto:jsloan@rochongenova.com)  
Tel: 1-800-462-3864 or local (416) 363-1867  
121 Richmond Street West  
Suite 900  
Toronto, ON M5H 2K1

Kim Spencer McPhee Barristers P.C.

Attention: Megan B. McPhee  
[mbm@complexlaw](mailto:mbm@complexlaw)  
Tel: (416) 596-1414

1203-1200 Bay Street  
Toronto, ON M5R 2A5

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al., Ontario Superior Court of Justice Action No. CV-14-502023-00CP</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000687-141</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000729-158</i>

**OBJECTION FORM**

ONLY SUBMIT THIS FORM IF YOU WISH TO OBJECT TO THE PROPOSED SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO OBJECT** to the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

**1. OBJECTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an objection.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are objecting to the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;
- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

<input type="checkbox"/>	<b>I CONFIRM THIS OBJECTION IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b>
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## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

## 3. I WISH TO OBJECT

Provide in the box below your objection to the proposed settlement. You can also provide your objection in an attachment.

## 4. SETTLEMENT APPROVAL HEARINGS

The Superior Court of Québec will hold a settlement approval hearing in person at the Montreal Courthouse at 1 Notre-Dame Street East, Montreal and by video conference on July 31, 2024.				
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
The Ontario Superior Court of Justice will hold a settlement approval hearing by video conference from 130 Queen Street West, Toronto on July 30, 2024.				
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

If you will be appearing through a lawyer, please provide the following personal identification information for your lawyer.  
If more than one lawyer represents you, please provide the following information for other lawyers in an attachment.

Lawyer's Last Name:		Lawyer's First Name:	
Lawyer's Mailing Address:			Suite Number:
City:	Province/State:	Postal Code/Zip Code:	Country:
Lawyer's Phone Number:	Lawyer's Email Address:		Lawyer's Law Firm Name:

## 5. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY MM DD

## 6. SUBMISSION

If you wish to object to the proposed settlement, your completed objection form MUST be received on or before July 19, 2024.

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Québec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your completed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">GM Ignition Switch Economic Settlement c/o JND Legal Administration PO Box 8111 Vancouver Main Vancouver, BC V6B 4E2 info@GMIgnitionSwitchSettlement.ca</p>
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<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al., Ontario Superior Court of Justice Action No. CV-14-502023-00CP</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000687-141</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000729-158</i>

**OPT-OUT FORM**

ONLY SUBMIT THIS FORM IF YOU **DO NOT** WANT TO PARTICIPATE IN AND CLAIM BENEFITS UNDER THE SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO EXCLUDE YOURSELF** from the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca).

**1. REQUESTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an opt-out request.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are opting out of the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

- Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:
- authorized GM dealers;
  - daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
  - governmental or quasi-governmental bodies;
  - the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
  - Actions Counsel\* as well as members of their staff and immediate family;
  - all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
  - all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

<input type="checkbox"/>	<p><b>I CONFIRM THIS OPT-OUT REQUEST IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b></p>
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## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

## 3. PROOF OF OWNERSHIP

For each of the vehicles identified in item 3, **attach a copy of your proof of ownership**. If you own or previously owned the vehicle, please provide a copy of the vehicle's registration certificate or bill of sale. If you lease or previously leased the vehicle, please provide a copy of the lease agreement relating to the vehicle.

## 4. I WISH TO OPT OUT

Check the box below to confirm your intention to opt out of the proposed settlement.

I wish to be excluded from the General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement and am opting out.

**I OPT OUT**

## 5. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY / MM / DD

## 6. SUBMISSION

If you wish to opt-out of the proposed settlement, your completed opt-out form MUST be received on or before July 19, 2024.

**IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC**, your completed objection form should be sent by mail or courier to the following address:

Clerk of the Superior Court of Québec  
Montréal Court house  
Re: Michael Gagnon v. General Motors of Canada et. al.  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

**IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE**, your completed objection form may be sent by mail, courier or email to the following address:

GM Ignition Switch Economic Settlement  
c/o JND Legal Administration  
PO Box 8111  
Vancouver Main  
Vancouver, BC V6B 4E2  
info@GMIgnitionSwitchSettlement.ca

	Make, Model and Model Year*	GM Exhibit "C" Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero	14299	2014-246	
	1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

APR 28 2023 Exhibit "D"

AMENDED THIS / MODIFIÉ CE \_\_\_\_\_ PURSUANT TO / CONFIRMÉ PAR \_\_\_\_\_  
 RULE/LA RÉGLE 28.02 ( 3 )  
 THE ORDER OF / L'ORDONNANCE DU \_\_\_\_\_  
 DATED / FAIT LE \_\_\_\_\_  
 REGISTRAR / SUPERIEUR COURT OF JUSTICE \_\_\_\_\_

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**SECOND FRESH AS AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: April 11, 2014

Issued by: "Michelle Godin"

Address of court office:

393 University Avenue  
10<sup>th</sup> Floor  
Toronto, Ontario  
M5G 1E6

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**CLAIM****I. DEFINITIONS**

1. The following definitions apply for the purposes of this statement of claim:

- a) **“Amanda”** means the Plaintiff Amanda Oberski;
- b) **“Captured Test Fleet”** means late-stage pre-production vehicles that are given to program team executives to drive, allowing them to report any malfunctions to General Motor Company’s Quality Group department;
- c) **“CJA”** means the Ontario *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended;
- d) **“Class” or “Class Members”** means, collectively, members of the Injury Class, Owner / Lessee Class and Family Class.
- e) **“Class Vehicles” or “Subject Vehicles”** means all vehicles subject to the following recalls for the **Ignition Switch Defect** and the **Electric Power Steering Defect**:

	<b>GM (Manufacturer) Recall Number</b>	<b>Transport Canada Recall Number</b>
<b>Delta Ignition Switch</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
	14123	
<b>Key Rotation</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key</b>	14294	2014-243
<b>Electric Power Steering</b>	14115	2014-104
	14116	
	14117	
	14118	

- f) **“CPA”** means the *Class Proceedings Act, 1992*, S.O. 1992, c.6, as amended;
- g) **“Dalian”** means Dalian Alps Electronics Company Ltd.;
- h) **“Dalian Ignition Switch”** means the ignition switch manufactured by **Dalian** and subject to Manufacturer Recall Number 14299;

- i) **“Defendants”** means the Defendants to this action;
- j) **“Delphi”** means Delphi Automotive LLP;
- k) **“Delphi Ignition Switch”** means the ignition switch manufactured by **Delphi** and subject to Manufacturer Recall Numbers 13454, 14063 and 14092;
- l) **“Edward”** means the Plaintiff Edward Oberski, Amanda’s father;
- m) **“Electric Power Steering Defect”** means the defect of the power steering systems in certain **Class Vehicles** covered by Transport Canada recall 2014-104;
- n) **“EWO”** means Engineering Work Order;
- o) **“Excluded Persons”** means the Defendants, any entity or division in which the Defendants have a controlling interest, and their legal representatives, officers, directors, assigns, heirs and successors;
- p) The **“Family Class”** and **“Family Class Members”** means the following:

All persons who on account of a personal relationship to an Injury Class Member are entitled to assert a derivative claim for damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and comparable provincial and territorial legislation, other than Excluded Persons;
- q) **“GM”** means General Motors Company;
- r) **“GMC”** means General Motors Corporation;
- s) **“GM Canada”** means General Motors of Canada Limited, which is now known as General Motors of Canada Company;
- t) **“Identification Number”** means Identification number 10392423 for the manufacturing designation of the Delphi ignition switch;
- u) **“Ignition Switch”** means the **Dalian Ignition Switch, Delphi Ignition Switch, Strattec Ignition Switch** and **Stoneridge Ignition Switch**;
- v) **“Ignition Switch Defect”** means the defect of the **Dalian Ignition Switch, Delphi Ignition Switch, Strattec Ignition Switch** or **Stoneridge Ignition Switch** covered by Transport Canada recalls 2014-038, 2014-060, 2014-101, 2014-273, 2014-246, 2014-284, 2014-243;

w) The **“Injury Class”** and **“Injury Class Members”** means the following:

All persons in Canada who sustained injury or death in an accident while operating, or being transported in, a Class Vehicle, other than Excluded Persons;

x) **“NHTSA”** means the U.S. National Highway Traffic Safety Administration;

y) **“New GM”** means General Motors LLC;

z) **“New Stoneridge Ignition Switch”** means the redesigned ignition switch manufactured by Stoneridge Inc Pollak Engineered Products;

aa) The **“Owner / Lessee Class”** and **“Owner / Lessee Class Members”** means the following:

All persons and entities in Canada who were or are the registered owners and/or lessees of the Class Vehicles, other than Excluded Persons;

aa) **“Plaintiffs”** means **Amanda, Edward and Stacey**;

bb) **“PRTS Inquiry”** means a Problem Resolution Tracking System inquiry;

cc) **“Stacey”** means Stacey Green;

dd) **“Strattec”** means Strattec Security Corporation;

ee) **“Strattec Ignition Switch”** means the ignition switch manufactured by **Strattec** and subject to Manufacturer Recall Number 14294;

ff) **“Stoneridge”** means Stoneridge Inc Pollak Engineered Products; and

gg) **“Stoneridge Ignition Switch”** means the ignition switch manufactured by **Stoneridge** and subject to Manufacturer Recall Number 14350.

## II. RELIEF SOUGHT

2. The Plaintiffs claim, on their own behalf and on behalf of all Owner / Lessee Class Members, Injury Class Members and Family Class Members:

- a) an order certifying this action as a class proceeding and appointing Amanda as the representative plaintiffs of the Injury Class, appointing Edward as the representative plaintiff of the Family Class, and appointing Stacey as the representative plaintiff of the Owner / Lessee Class, pursuant to the *CPA*;
- b) a declaration that the Defendants were negligent in the design, development, testing, manufacturing, licensing, assembly, distribution, marketing and sale of the Class Vehicles and their component parts;
- c) a declaration that the Defendants breached their duty to warn the Plaintiffs and other Class Members of the defective Class Vehicles and their component parts;
- d) a declaration that the Class Vehicles contain defective parts and/or are not merchantable;
- e) a declaration that any applicable statute of limitation has been tolled by the Defendants' knowledge, fraudulent concealment, and denial of the facts alleged herein, which prevented the Plaintiffs from discovering their cause of action until the issuance of the recall notices, as described further below;
- f) a declaration that the Defendants are responsible for notifying all Owner / Lessee Class Members of the Ignition Switch Defect and the Electric Power Steering Defect and ensuring that all Class Vehicles are recalled and repaired;
- g) damages in an amount to be provided prior to trial, including but not limited to:
  - i. damages for personal injury or death suffered by members of the Injury Class;

- ii. damages suffered by members of the Family Class as a result of the injury or death suffered by members of the Injury Class; and
  - iii. damages for the diminution in value and/or overpayment for the vehicles purchased or leased by members of the Owner / Lessee Class Members' vehicles, or such other amount as may be proved in this Honourable Court;
- h) aggregate damages pursuant to section 24 of the *CPA* and equivalent legislation in other provinces;
  - i) special damages in an amount to be provided prior to trial;
  - j) punitive damages in the amount of \$500,000,000.00;
  - k) an order directing a reference or such other directions as may be necessary to determine issues not determined at the trial of the common issues;
  - l) prejudgment and postjudgment interest pursuant to the *CJA*;
  - m) costs of this action;
  - n) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to s.26(9) of the *CPA*; and
  - o) such further and other relief as this Honourable Court deems just.

### III. NATURE OF THE ACTION

3. The Defendants design, engineer, manufacture, assemble, test, inspect, repair, label, advertise, promote, market, supply, distribute, and sell a wide variety of motor vehicles and motor vehicle parts throughout North America.

4. Beginning in or about February 2014, the Defendants began sending recall notices to a number of Canadian owners and lessees of Subject Vehicles, including but not limited to:

- a) 186,013 Canadian owners of Subject Vehicles manufactured with the Dalian Ignition Switch Defect;
- b) 367,824 Canadian owners of Subject Vehicles manufactured with the Delphi Ignition Switch Defect;
- c) 17,736 Canadian owners of Subject Vehicles manufactured with the Strattec Ignition Switch Defect; and
- d) 641,121 Canadian owners of Subject Vehicles manufactured with the Stoneridge Ignition Switch Defect.

The notices were part of a wider global recall involving approximately 6.3 million vehicles.

5. The Ignition Switch Defect rendered the Class Vehicles inherently dangerous. According to the recall notices, the ignition switch on recalled vehicles can move from the “run” position to the “accessory” or “off” position while a vehicle is in motion, resulting in a loss of electrical power, the turning off of the engine and the disabling of

the airbags. This defect is dangerous and has caused serious and life-threatening injury, and in some cases death.

6. Although the Defendants knew of these defects for years, they failed to inform regulatory authorities, the Owner / Lessee Class Members or the general public or issue a recall until the beginning of 2014. Even after this time, according to NHTSA testimony before the U.S. Congress, the replacement parts were not available until April 7, 2014, and thereafter it would take several months to complete repairs to all affected vehicles.

7. The Ignition Switch Defect has led to numerous complaints to both Transport Canada and the NHTSA for various incidents, including collisions involving severe injuries and death to drivers and passengers of the Class Vehicles.

8. The Plaintiffs seek, on their own behalf and on behalf of other Class Members, damages sustained as a result of the purchase and/or use of the Class Vehicles.

#### **IV. THE PLAINTIFFS**

##### **a) Amanda**

9. Amanda is a 28-year-old educator and consultant residing in the City of Toronto. On May 27, 2010, while driving her 2006 Chevrolet Cobalt, Amanda experienced power steering and power brake failure. Her vehicle swerved across two lanes of traffic on the 401 highway, and rolled over several times. The airbags did not deploy.

10. Though she was wearing her seatbelt, Amanda suffered severe, life-threatening injuries in the accident. She spent months in outpatient care and continues to suffer from

the physical and psychiatric consequences of her injuries. Amanda's vehicle was manufactured using the Delphi Ignition Switch.

11. Because her vehicle was considered a write-off, it was not retained for inspection. Amanda was sober at the time of the accident.

12. On March 31, 2014, Amanda received the a recall notice warning of the Ignition Switch Defect in respect of her 2006 Chevrolet Cobalt.

13. Amanda states that her accident was caused by the Ignition Switch Defect. But for the Ignition Switch Defect, Amanda would not have lost control of her vehicle and rolled over, causing her to sustain serious, life threatening injuries. Further, but for the Ignition Switch Defect, Amanda's airbags would have deployed and her injuries would have been far less severe.

**b) Edward**

14. Edward is Amanda's father. Along with his spouse, Amanda's mother, Edward accompanied Amanda at every step of her recovery, from her hospital bed, to rehabilitation centre, to their family home.

15. Edward expended considerable funds to travel to be at Amanda's hospital bedside, and, subsequently, to support Amanda's rehabilitation, including through the purchase of mobility devices. The details of such expenditures will be provided prior to trial. Further, Amanda's injury and prolonged rehabilitation deprived Edward of Amanda's support, guidance, care and companionship and caused him tremendous



emotional distress. Edward continues to suffer these consequences of Amanda's injury to this day.

**c) Stacey**

16. Stacey is a 48-year-old medical office administrator residing in the City of Windsor. On November 5, 2007, she purchased a 2007 Saturn Ion, which she still owns. This motor vehicle was manufactured using the Delphi Ignition Switch.

17. Stacey suffered significant inconvenience when her vehicle was recalled in March 2014, spending hours of her own time researching and verifying which recall covered her vehicle, and undertaking the steps necessary to make sure that the dangerous Ignition Switch Defect was properly remedied. Stacey states that she never would have bought her 2007 Saturn Ion had she known about the Ignition Switch Defect.

18. Stacey lost a total of two days of wages and lost time as a result of having to attend at her GM dealer to implement the recall in respect of the Delphi Ignition Switch in her Class Vehicle.

**V. THE DEFENDANTS**

19. The Defendant New GM, is a Delaware corporation with its headquarters located in Detroit, Michigan.

20. New GM bought substantially all of the assets of GMC pursuant to a Master Sales and Purchase Agreement ("Agreement") when GMC filed for bankruptcy in 2009. Under

the Agreement, New GM also expressly assumed certain liabilities of GMC, including certain statutory requirements:

From and after the Closing, Purchaser [GM] shall comply with the certification, reporting and recall requirements of the National Traffic and Motor Vehicle Safety Act, the Transportation Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the California Health and Safety Code and similar Laws, in each case, to the extent applicable in respect of vehicles and vehicle parts manufactured or distributed by Seller.

21. In addition, New GM expressly set forth that it:

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

22. GMC conceded the dangerous defect in the Class Vehicles and, as such, the Class Members' claims against New GM are not affected by the bankruptcy of GMC.

23. Post-bankruptcy, New GM recalled certain vehicle brands, including the vehicles of the Plaintiffs.

24. GM Canada is a company incorporated pursuant to the laws of Canada under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 with its registered head office at 1908 Colonel Sam Drive, Oshawa, Ontario, L1H 8P7. GM Canada is a wholly-owned subsidiary of GM. GM Canada operates four assembly and manufacturing plants in Ontario, Canada.

25. GM Canada was responsible for the exclusive distribution of the full line of General Motors' North American models to affiliated retailers and dealerships in Canada, through which the Class Vehicles were sold. In addition to distribution, GM Canada was, and is, responsible for the design, testing, manufacturing, assembly, inspection, marketing, sale and lease of the Class Vehicles in Canada.

26. The Defendants were engaged in the business of designing, manufacturing, constructing, assembling, marketing, warranting, distributing, selling, leasing, and servicing automobiles, including the Class Vehicles, and other motor vehicles and motor vehicle components throughout Canada and the United States.

27. The Defendants were organized in such a way that they functioned as an ongoing, organized and continuing business unit sharing common purposes and objectives with overall management. Each of the Defendants was the agent of the other and each is vicariously responsible for the acts and omissions of the others.

28. At all material times, the Defendants shared the common purpose of designing, testing, developing, manufacturing, assembling, marketing, selling, leasing and repairing the Class Vehicles.

29. New GM is liable for the acts and omissions of its subsidiaries because:

- a) it operated itself and the other Defendants as a single entity;
- b) it completely controlled the day-to-day operations of its subsidiaries through the GM North America Division and the Canadian Board of Directors, such that the subsidiaries did not function independently;

- c) it prepared its financial statements on a consolidated basis and reported profits from the sale of the Class Vehicles;
- d) it associated its name with the Class Vehicles on all vehicles, in all manuals, and at all GM Canada dealerships;
- e) it is the owner on record of 11 active trademarks registered with the Canadian Intellectual Property Office;
- f) it owns, either on its own or through GM Canada, 16 properties in Canada, including GM Canada's head office location at 1908 Colonel Sam Drive in Oshawa, Ontario;
- g) it is responsible for GM Canada obligations, including retiree healthcare benefits and GM Canada's pension plan;
- h) it has a stock incentive plan for GMC stock which is available to all GMC employees, including those of its subsidiaries; and
- i) to permit New GM to avoid vicarious liability for its Canadian subsidiary would yield a result flagrantly opposed to justice and the interests of Canadians.

## **VI. THE CLASSES**

30. Amanda brings this class proceeding on her own behalf and on behalf of the members of the Injury Class defined as follows:

All persons in Canada who sustained injury or death in an accident while operating, or being transported in, a Class Vehicle, other than Excluded Persons.

31. Edward brings this class proceeding on his own behalf and on behalf of the members of the Family Class defined as follows:

All persons who on account of a personal relationship to an Injury Class Member are entitled to assert a derivative claim for damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and comparable provincial and territorial legislation, other than Excluded Persons.

32. Stacey brings this class proceeding on her own behalf and on behalf of the members of the Owner / Lessee Class defined as follows:

All persons and entities in Canada who were or are the registered owners and/or lessees of the Class Vehicles, other than Excluded Persons.

## VII. FACTS

### a) Sale of the Defective Vehicles

33. The Defendants develop, engineer, design, research, manufacture, market and sell, through their retailer and distributor network, the Class Vehicles in Canada. For years, the Defendants have marketed and promoted the Class Vehicles as being safe and reliable.

34. The Class Vehicles are inherently defective, and contain defective parts, which have resulted in the presence of the Ignition Switch Defect or the Electric Power Steering Defect in the Class Vehicles.

**b) Admissions in Relation to the Ignition Switch Defect**

35. In a March 17, 2014 statement to employees, the Chief Executive Officer of GM, Mary Barra, announced an internal review of the company's processes and admitted that mistakes had been made in relation to the Ignition Switch recall.

36. Ms. Barra stated "something went wrong with our process in this instance, and terrible things happened." Ms. Barra also apologized stating, "I am very sorry for the loss of life that occurred, and we will take every step to make sure this never happens again."

37. In testimony before U.S. Congress on April 1, 2014, Ms. Barra acknowledged that the Defendants used the Ignition Switch even when they knew that the part did not meet the Defendants' own specifications. During that testimony, Ms. Barra apologized to those who had been injured, and the families and friends of those who had lost their lives, as a result of the Ignition Switch Defects. She admitted that, "I cannot tell you why it took years for a safety defect to be announced in that (small-car) program."

38. In written testimony submitted to U.S. Congress prior to the hearing on April 1, 2014, the Acting Administrator of NHTSA, the Honourable David Friedman, castigated New GM and stated that, "GM first provided NHTSA a chronology of events on February 24, 2014. The information in GM's chronology raises serious questions as to the timeliness of GM's recall." Mr. Friedman further testified that, "GM had critical information that would have helped identify this defect." Specifically, the chronology provided by New GM showed that they were aware of the Ignition Switch Defects as early as 2001.

39. Ms. Barra's statements are admissions that the Defendants were negligent in the design, manufacture, and distribution of the Class Vehicles. As a result of this negligence, the Plaintiffs sustained damages.

40. Further, in issuing the March 2014 recall, New GM did not explain why a wider-ranging recall had not been issued earlier. Jeff Boyer, Vice President of New GM Global Safety, stated on March 31, 2014 that: "We have recalled some of these vehicles before for the same issue and offered extended warranties on others, **but we did not do enough**" (emphasis added). Mr. Boyer's position was newly formulated by New GM in the wake of the public outcry over the Recalls.

41. On September 17, 2015, Ms. Barra, gave the following company statement: "The mistakes that led to the ignition switch recall should never have happened. We have apologized and we do so again today." On the same day, Mr. Mark Reuss, New GM Executive Vice President of Global Product Development and Global Purchasing Supply Chain, addressed employees in a Town Hall Meeting and stated the following: "...we will never forget what happened with the ignition switch tragedy, nor would we ever want to...As we do go forward, we cannot and will not define ourselves by our past mistakes..."

**c) Formal Admissions in this Proceeding**

42. In response to Request to Admit dated November 8, 2017 and an Amended Request to Admit dated January 19, 2018, on February 12, 2018, the Defendants admitted the foregoing facts in respect of vehicles subject to Transport Canada Recall Nos. 13454 and 14063.

43. The Defendants asserted that all other Canadian recalls concerning the Ignition Switch Defect involved components that were not “substantially similar” to those encompassed by Recall Nos. 13454 and 14063.

44. The Valukas Report, the Expert Report of Dr. Glen Stevick, and the Defendants’ admissions in the United States clearly establish that Ignition Switch Defect was common across all recalls at issue in this proceeding.

**d) GM’s Deferred Prosecution Agreement with the United States Attorney**

45. On September 17, 2015, GM entered into a Deferred Prosecution Agreement (the “Agreement”) with the United States Attorney for the Southern District of New York. The Agreement was as follows:

- a) GM consented to being charged with one count of engaging in a scheme to conceal the deadly Ignition Switch Defect from its U.S. regulator;
- b) GM consented to being charged with one count of committing wire fraud by defrauding U.S. consumers into purchasing its products by means of concealing information and making misleading statements about the safety of vehicles equipped with the Ignition Switch Defect;



- c) GM admitted that it failed to disclose to its U.S. regulator and the public the Ignition Switch Defect, a potentially lethal safety defect that caused airbag non-deployment in certain GM model cars;
  - d) GM admitted that it misled consumers about the safety of GM cars afflicted by the Ignition Switch Defect; and
  - e) GM agreed to pay \$900 million to the United States, representing the proceeds of the conduct as described in this paragraph.
46. As part of the Agreement, GM admitted and agreed to certain facts, mainly that:
- a) In or about the spring of 2012 through to around February 2014, New GM failed to disclose a deadly safety Ignition Switch Defect to NHTSA;
  - b) GMC falsely represented to consumers in or about June 2005 that vehicles containing the Ignition Switch Defect posed no safety concerns;
  - c) Before the defective ignition switches went into production in 2002, certain GMC engineers knew of the Ignition Switch Defect, however, the GMC engineer in charge approved the production of the defective ignition switches anyway;
  - d) In or about 2004 to 2005, GMC rejected a simple improvement to the head of the key that would have significantly reduced unexpected shutoffs at a price of less than a dollar per vehicle;
  - e) In or about April 2006, a GMC engineer directed that the defective ignition switch no longer be used in new cars, and that it be replaced with a non-defective switch that bore exactly the same part number, so that no one would be able, without taking the switches apart, to tell the difference

between the two switches. Nothing was done to remedy the existing cars equipped with the defective switches;

- f) When New GM discovered the fact that the Ignition Switch Defect could cause airbag non-deployment, it did not correct the earlier disclosures that the Ignition Switch Defect caused no safety concern; instead, it concealed the discovery from NHTSA and the public so that it could manage the issue;
- g) Despite the regulatory requirement that all safety defects be reported to NHTSA within five days of discovering them, New GM did not notify NHTSA and the public about the Ignition Switch Defect until February 2014, about 20 months after New GM knew about the connection between the Ignition Switch Defect and fatal airbag non-deployment incidents;
- h) On at least two occasions while the Ignition Switch Defect was well known by some within New GM but not disclosed to the public or NHTSA, certain New GM personnel made incomplete and therefore misleading presentations to NHTSA assuring that New GM would and did act promptly, effectively and in accordance with its formal recall policy to respond to safety problems, including airbag-related safety devices;
- i) New GM not only failed to disclose the Ignition Switch Defect but also actively touted the reliability and safety of cars equipped with the Ignition Switch Defect with a view to promoting sales of used GM cars. In particular, New GM certified that used vehicles sold as part of its certified pre-owned program had been checked for the safety of their ignition systems and keys;
- j) Switches affected by the Ignition Switch Defect were approved for production, despite failing to meet GMC's or New GM's own mechanical specifications;

- k) Various service bulletins issued by GMC to its dealers, including an October 2005 service bulletin, did not state that one of the conditions caused by the Ignition Switch Defect was a “stall”, even though this was one of the major problems of the Ignition Switch Defect. GMC’s Product Investigations Manager directed that the word “stall” be left out of the service bulletin, in order to avoid attracting the attention of NHTSA; and
- l) New GM did not recall the vehicles affected by the Ignition Switch Defect until February 2014; in the meantime, in or about October 2012 and November 2013, New GM personnel gave presentations to NHTSA in which they touted the robustness of New GM’s internal recall process and gave the misleading impression that New GM worked promptly and efficiently to resolve known safety defects, including defects related to airbag non-deployment.

**e) The Defendants’ Knowledge of the Ignition Switch Defect**

47. In or before 2001, during pre-production development of the Saturn Ion, GMC engineers learned of the Ignition Switch Defect. GMC claimed that a design change “had resolved the problem.”

48. In 2001, GMC published its internal specification on torque requirement for the Ignition Switch. The specification governed the “Tactile Characteristics” of the Ignition Switch and included a target force displacement curve specifying 20 Newton-centimeters as the torque needed to turn the Ignition Switch from Run to Accessory. The Ignition Switch never met GMC’s own “Tactile Characteristics” specification.

49. In 2003, a service technician observed a Saturn Ion stall as a result of the car’s ignition switching off while driving. This stall was documented in an internal GMC

report. The technician attributed the stall to the weight of the key ring. The car's switch was replaced and the inquiry was closed.

50. In early 2003, GMC learned from a Michigan dealership of a customer complaint about an engine shut off while a 2003 Pontiac Grand Am vehicle was in motion. On January 7, 2003, GMC opened the PRTS 0084/2003 investigation to collect and review data with respect to moving stalls in the 2003 Pontiac Grand Am model.

51. During the course of PRTS 0084/2003, GMC concluded that the torque required to turn the Ignition Switch with part number 22688239 ("226 Ignition Switch"), an ignition switch that was used in all models vehicles except the Pontiac Grand Prix, out of the "run" position was below internal specifications, and sufficiently low to constitute a safety defect. The Ignition Switch with part number 10310896 ("103 Ignition Switch") was used only in the Pontiac Grand Prix. The 226 Ignition Switch and the 103 Ignition Switch were identical. However, they were given different part numbers, contrary to GMC's internal policy.

52. GMC's Brand Quality Manager visited the dealership and requested that the customer demonstrate the problem. The customer was able to recreate the shut off by driving over a speed bump at approximately 30 – 35 mph. The Ignition Switch was turned out of the "run" position as the 2003 Pontiac Grand Am went over the speed bump, causing what has been described as a "moving stall".

53. On January 7, 2003, GMC opened the PRTS 0084/2003 investigation to collect and review data with respect to moving stalls in the 2003 Pontiac Grand Am model.

54. On May 22, 2003, GMC issued Service Bulletin No. 052203, advising dealers that the 226 Ignition Switch may turn out of the “run” position when the car goes over bumps because the weight of the keys would switch the car into the “accessory” position. This Service Bulletin was associated with Chevrolet Malibu models 1999-2003, Oldsmobile Alero models 1999-2003 and Pontiac Grand Am models 1999-2003.

55. At that time, GMC did not issue a Service Bulletin or otherwise advise its dealers or the Class Members that the defective Ignition Switch had been and continued to be used in the assembly of the other Vehicles not identified in Service Bulletin No. 052203.

56. On July 24, 2003, GMC initiated EWO 211722 to redesign the 226 Ignition Switch and create a new ignition switch, manufactured by Stoneridge, with a higher torque requirement increase to turn out of the “run” position. This ignition switch was designated part number 227737173 (“227 Ignition Switch”).

57. GMC only put the 227 New Ignition Switch into the Chevrolet Malibu, Chevrolet Alero and Pontiac Grand Am models, commencing with the 2004 model year.

58. GMC continued to assemble the Chevrolet Impala and Chevrolet Monte Carlo models with the 226 Ignition Switch, despite the availability of the 227 New Ignition Switch. Neither did GMC or GM Canada recall the vehicles that had been assembled with the 226 Ignition Switch to replace the switch with the 227 Ignition Switch. These vehicles continued to operate with the defective 226 Ignition Switch until the Defendants recalled these Vehicles in 2014, a decade later.

59. In addition, for approximately one year after GMC's initiation of EWO 211722, GMC continued to assemble the Pontiac Grand Prix with the defective 103 Ignition Switch, despite the availability of the New Ignition Switch.

60. On March 17, 2004, GMC initiated EWO 317693 to increase the detent plunger force on the 103 Ignition Switch, used in the Pontiac Grand Prix. But contrary to GMC's internal policy the new 103 Ignition Switch, manufactured by Stoneridge, retained the same 103 part number as the defective 103 Ignition Switch. Accordingly, the Defendants have no way of determining which Pontiac Grand Prix Vehicles were assembled with the defective 103 Ignition Switch, or with the new 103 Ignition Switch.

61. GMC also continued to use the defective 103 Ignition Switch as a replacement part to service the Pontiac Grand Prix notwithstanding its knowledge of its defect. The Defendants have no way of determining which Pontiac Grand Prix Vehicles were serviced with a defective 103 Ignition Switch, or with a 103 New Ignition Switch.

62. In 2004, GMC engineers observed the Ignition Switch Defect while testing a Chevrolet Cobalt. GMC opened an engineering inquiry PRTS Inquiry and again identified the Ignition Switch Defect.

63. Beginning in 2005, GMC began to receive complaints from drivers about the Ignition Switch Defect in 2005 Chevrolet Cobalts. These reports stated that the vehicles lost engine power when the ignition key moved out of the "run" position. As a result, GMC opened further PRTS Inquiries.

64. In March 2005, a GMC engineer proposed a re-design of the key head from a slotted to a hole configuration to remedy the Ignition Switch Defect. This solution, which cost just 57 cents per vehicle, was initially approved but later cancelled. It was never implemented in the Ignition Switch Defect Vehicles. A GMC project engineering manager closed an investigation into the issue, saying the “lead time for all solutions is too long”, “the tooling cost and piece price are too high” and none of the proposed fixes “represents an acceptable business case”.

65. In August 2005, at least one employee provided a Captured Test Fleet report when he tested the 2006 Chevrolet Impala (the “2005 Captured Test Fleet report”). The employee stated that he had experienced a moving stall. His Ignition Switch turned out of the “run” position after hitting a large bump when going from gravel road to pavement while driving at about 45 mph.

66. Since at least 2005, GMC knew that the Ignition Switch Defect is exacerbated by the location of the ignition switch. The Ignition Switch’s location means that it can easily be bumped by the driver, resulting in the ignition being turned from the “run” to the “accessory” or “off” position.

67. In 2005 and 2006, GMC issued service bulletins which instructed dealers on how to address the Ignition Switch Defect with a key ring insert, and advised them to tell customers not to dangle too many items from their key chains. In October 2005, GMC issued a service bulletin which advised technicians that the inadvertent turning of the key cylinder was causing the loss of the car’s electrical system and to provide customers with a key ring insert to alter the ignition switch design.

68. According to a chronology filed by the company with the NHTSA, GMC believed the service bulletins to be sufficient because the vehicle's steering and brakes were operable even after the engines lost power. However, as pleaded throughout this claim, this was incorrect, both in terms of the vehicles' functioning and in terms of the sufficiency of the bulletin, which did not fully disclose the nature of the Ignition Switch Defect.

69. On August 18, 2006, GMC provided Technical Service Bulletin no. 3871 to all dealers advising that there is potential for the Ignition Switch to move out of the Run position due to low ignition key cylinder torque. GM Canada did not provide this advice directly to the Class Members.

70. In 2006, GMC approved a design change for the ignition switch. The change to the ignition switch was not reflected in a corresponding change in the part number for the ignition switch. The new design incorporated the use of a new plunger and switch which increased torque force. This design change was implemented at some point during the 2007 model year of the Ignition Switch Defect Vehicles. The failure of GMC to change the part number to reflect the design change has led to difficulties in determining precisely which vehicles contain the newly designed ignition switch.

71. In 2007, investigators from the NHTSA informed GMC of a fatal July 2005 crash involving a young woman driving a 2005 Chevrolet Cobalt. Data retrieved from the vehicle's diagnostic system indicated the ignition was in the "accessory" position, which caused the airbags to not deploy.



72. In 2007, a GMC investigative engineer was tasked with tracking Chevrolet Cobalt collisions in which the vehicles were involved in frontal impacts and the airbags did not deploy. Data from the vehicles' diagnostic systems was available for nine crashes. The data showed the ignition was in the "run" position for five collisions and in the "accessory" position for the other four collisions.

73. After another PRTS Inquiry in 2009, GMC redesigned the Chevrolet Cobalt key, changing the top of the key from a "slot" design to a "hole" design—as had been suggested in 2005. GMC instituted the change after finding that consumers "with substantially weighted key chains/additional keys hanging from ignition key have experienced accidental ignition shut-off" and the design change was intended to "significantly reduce downward force and the likelihood of this occurrence." The new key design was produced for 2010 model year.

74. In 2011, New GM convened a Field Performance Evaluation ("FPE") team to investigate collisions relating to the Ignition Defect. The FPE team was tasked with investigating a group of collisions in which the airbags in 2005-2007 model year Chevrolet Cobalt vehicles and a 2007 Pontiac G5 vehicle did not deploy during frontal impacts. This investigation also included a review of information relating to the Saturn Ion, Chevrolet HHR and Pontiac Solstice model types.

75. In 2012, the FPE investigation concluded that the ignition switch torque performance could result in airbag non-deployment upon frontal impact.

76. In April 2013, the FPE team learned that the torque performance of a General Motors service part ignition switch purchased after 2010 differed substantially from that of an ignition switch that was installed on a 2005 Chevrolet Cobalt vehicle.

77. The Field Performance Assessment Engineer leading the FPE team also learned that others had observed and documented that the detent plunger and spring used on the service part switch differed from those used on the original equipment switch installed on the 2005 Chevrolet Cobalt vehicle. A subsequent outside investigation revealed that the ignition switches installed in early-model Saturn Ion and Chevrolet Cobalt vehicles did not meet GMC's torque specifications.

78. In December 2013 and January 2014, the results of the FPE investigation were presented to New GM's Field Performance Review Committee and the Executive Action Decision Committee ("EFADC"). After reviewing the FPE investigation into the Chevrolet Cobalt and the Pontiac G5 vehicles, the EFADC ordered a recall of some of the Class Vehicles on January 31, 2014.

79. In the spring of 2014, the Defendants recalled 368,067 vehicles under manufacturer recall numbers 13454, 14063 and 14092. These vehicles were manufactured with a defective ignition switch supplied by Delphi / Electronic Architecture.

80. On March 10, 2014 New GM announced that it had retained Anton Valukas of the firm Jenner & Block to conduct an internal investigation of the facts and circumstances related to manufacturer recall numbers 13454, 14063 and 14092. This retainer followed allegations that GMC knew of the dangerous defect in the ignition switch supplied by

Delphi Packard Electrical / Electronic Architecture for more than a decade prior to disclosing the defect to regulators and recalling the affected vehicles.

81. Mr. Valukas was asked to determine “how and why” it took so long for the GM companies to issue manufacturer recall numbers 13454, 14063 and 14092. As part of Mr. Valukas’ internal investigation, Jenner & Block conducted a review of GMC’s, New GM’s and GM Canada’s documents.

82. In April 2014, as part of this document review, emails relating to the 2005 Captured Test Fleet report were uncovered by Mr. Valukas and brought to the attention of New GM’s Production Investigation group.

83. On May 1, 2014, New GM assigned a Product Investigation engineer to investigate the issues raised in the 2005 Captured Test Fleet report.

84. As part of this investigation, New GM’s test personnel conducted lab tests on the Ignition Switch. New GM also gathered and analyzed data relating to the Ignition Switch from its warranty and customer satisfaction databases and NHTSA’s Vehicle Owners’ Questionnaire. The Product Investigation engineer concluded that the Ignition Switch performed below GMC’s own torque specification.

85. On June 6, 2014 the Product Investigation engineer made a presentation regarding his investigation at an Open Investigation Review meeting. As a result of this meeting, New GM assigned its personnel at the Milford Proving Ground in Michigan to analyze the performance of the Ignition Switch in some of the Vehicles. This road testing

indicated that the torque performance of the Ignition Switch is insufficient to resist unintended movement out of the Run position.

86. On June 11 and June 13, 2014, the Product Investigation engineer presented the conclusion of his investigation to New GM's Safety and Field Action Decision Authority.

87. On June 15, 2014 the Safety and Field Action Decision Authority met and decided to conduct a recall of the 186,013 Vehicles manufactured with the Ignition Switch under manufacturer recall number 14299.

88. The investigation undertaken by New GM in May and June, 2014 about the 2005 Captured Test Fleet report confirmed what GMC already knew in 2005: namely that the torque performance of the Ignition Switch is insufficient to resist energy generated when a Vehicle goes off road or experiences some other jarring event, resulting in the unintentional movement of the Ignition Switch out of the Run position and the driver experiencing a moving stall.

89. From pre-production of the Ignition Switch through to the 2014 preparation of the Valukas Report, further described below, GMC and the Defendants were advised over and over from their employees and dealers, the press, and certain Vehicle users that the Ignition Switch was defective and that it caused moving stalls.

90. The Defendants have acknowledged that the Ignition Switch Defect has resulted in at least 28 deaths in North America, one or more of which is being investigated by Transport Canada. Independent safety regulators have recorded 303 deaths associated

with only the Saturn Ion and Chevrolet Cobalt Class Vehicles due to the Ignition Switch Defect.

**f) The Recalls**

91. The recalls noted above have not been timely nor adequate. Recalls are not an effective remedy and are not offered for all defective vehicle models. The recalls did not provide any compensation for consumers who wish to obtain a refund of the purchase price of their Class Vehicle, nor damages to those who suffered personal injury or property damage as a result of the Class Vehicles' inherently dangerous design defects.

92. Furthermore, the recalls did not provide compensation to Class Members for the loss of use of their vehicles. There are many Class Members who no longer feel safe driving their Class Vehicles and must seek alternative forms of transportation, incurring the significant costs and inconvenience associated with doing so. These and other losses have been sustained by those Class Members whose Class Vehicles are either no longer functional due to damage and/or are in need of repair, and who must wait for component parts to become available for such repair.

***i) Dalian Ignition Switch Recalls***

93. On June 16, 2014, the Defendants issued a press release that stated they will recall and "will rework or replace keys in 187,972 Canadian cars". The recalled cars were made with the Dalian Ignition Switch.

94. On June 20, 2014 New GM sent a letter to NHTSA about the anticipated safety recall of Vehicles that had been built with the Dalian Ignition Switch. The letter stated it

was very important that customers remove all items from their key ring, leaving only the vehicle key.

95. On June 20, 2014, the Defendants sent a letter to each dealer instructing that they cease delivery of all vehicles made with the Dalian Ignition Switch in their new or used vehicle inventory, excluding the Chevrolet HHR models 2006-2011 and the Chevrolet Impala model of 2014, due to the Ignition Switch Defect.

96. On June 23, 2014, the Defendants reported Manufacturer Recall 14299 to Transport Canada recalling all Buick Allure models 2005-2009, Buick Lucerne models 2006-2011, Cadillac Deville models 2000-2005, Cadillac DTS models 2006-2013, Chevrolet Impala models 2006-2013 and Chevrolet Monte Carlo models 2006-2007.

97. On July 18, 2015, the Defendants sent another letter to each dealer requesting that dealers no longer place items on vehicle key rings and further, provided specifications of how to attach an item, only if necessary.

98. On August 25, 2014, the Defendants sent a letter to each dealer about recall no. 14299, for dealers to hold all indicated vehicles that were in their inventories until the necessary repairs as specified had been performed on the vehicle.

***ii) Delphi Ignition Switch Recalls***

99. On February 10, 2014, New GM issued a recall in the United States relating to the Ignition Switch Defect of Chevrolet Cobalt vehicles for model years 2005 through 2007 and Pontiac G5 vehicles for the model year 2007.

100. On February 10, 2014, Transport Canada issued recall no. 13454 for Chevrolet Cobalt models 2005 - 2007, Pontiac G5 model year 2007 and Pontiac Pursuit models 2005 and 2006, due to the Delphi Ignition Switch Defect.

101. On February 12, 2014, the Defendants sent a letter to all New GM and GM Canada dealers informing them about recall no. 13454 due to the Ignition Switch Defect. The letter urged that customers should remove non-essential items from their key ring and that the Defendants expected to have parts to remedy the defect in April, 2014.

102. On February 24, 2014, New GM reported a further safety recall on some of their vehicles to the NHTSA.

103. On February 25, 2014, New GM expanded the recall in the United States relating to the Ignition Switch Defect of Chevrolet HHR vehicles for model years 2006-2007, Pontiac Solstice vehicles for model years 2006- 2007, Saturn Ion vehicles for model years 2003-2007 and Saturn Sky vehicles for model year 2007.

104. On February 26, 2014, recall no. 14063 was issued which expanded the Canadian recall to include Chevrolet HHR model years 2006-2008, Pontiac Solstice model years 2006-2008, Saturn Ion model years 2005-2007 and Saturn Sky model year 2007, which also suffer from the Delphi Ignition Switch Defect.

105. On March 4, 2014, the Defendants sent a letter to each New GM and GM Canada dealer about the anticipated recalls no. 13454 and 14063 due to the Delphi Ignition Switch Defect. The letter stated that until further recalls had been performed, it was very important that customers remove all items from their key ring, leaving only the vehicle key.

106. On March 27, 2014, New GM expanded the recall in the United States relating to the Ignition Switch Defect to include Chevrolet Cobalt vehicles for model years 2008 through 2010, Saturn Sky vehicles for model years 2008 through 2010, Pontiac G5 and Pontiac Solstice vehicles for model years 2008 through 2010 and Chevrolet HHR vehicles for model years 2008 through 2011.

107. On March 31, 2014, Transport Canada issued a recall of Chevrolet Cobalt vehicles, Saturn Sky vehicles, Pontiac G5 and Pontiac Solstice vehicles, and Chevrolet HHR vehicles, all for model year 2008. According to the recall notice, a safety defect may exist in ignition switches sold as service replacement parts. The defect was the same defect that prompted the earlier recalls of the Ignition Switch Defect vehicles.

***iii) Strattec Ignition Switch Recalls***

108. On June 20, 2014, the Defendants reported a Road Safety Recall to Transport Canada due to the Ignition Switch Defect - recall no. 14294.

***iv) Stoneridge Ignition Switch Recalls***

109. On June 30, 2014, the Defendants issued a press release that stated they “have worked aggressively to identify and address the major outstanding issues that could



impact the safety of our customers.” In this press release the Defendants stated that they would conduct six new safety recalls in Canada and explained the reason for the recall of all Vehicles manufactured with the defective 103 Ignition Switch and 226 Ignition Switch.

110. On July 3, 2014, New GM sent a letter to NHTSA about the anticipated safety recall for the defective Ignition Switch. The letter stated that until further recalls had been performed, it was very important that customers remove all items from their key ring, leaving only the vehicle key. This letter was in relation to the Chevrolet Impala model years 2000-2005, Monte Carlo model years 2000-2005, Chevrolet Malibu model years 1997-2005, Oldsmobile Alero model years 1999-2004, Oldsmobile Intrigue model years 1998-2008, Pontiac Grand Am model years 1999-2005 and Pontiac Grand Prix model years 2004-2008.

111. On July 4, 2014, the Defendants reported a Road Safety Recall to Transport Canada due to the Ignition Switch Defect - recall no. 14350.

112. July 17, 2014, the Defendants followed up on recall no. 14350 by sending a letter to each dealer about the anticipated safety recall for the Ignition Switch Defect. The letter reiterated that it was very important that customers remove all items from their key ring, leaving only the vehicle key and that no parts were available to fix the Ignition Switch Defect.

113. On July 18, 2014, the Defendants sent another letter to each dealer requesting that dealers no longer place items on vehicle key rings and further, provided specifications of how to attach an item, only if necessary.

**g) Failure to Warn and Recall in a Timely Manner**

114. The Defendants failed to recall the Class Vehicles in a timely manner or to otherwise warn the public about the Ignition Switch Defect and Electric Power Steering Defect.

115. After discovering these defects, the Defendants continued to design, manufacture, distribute, sell and lease the Class Vehicles. The Defendants have sold, directly or indirectly, through dealers and other retail outlets, thousands of defective Class Vehicles in Ontario and throughout Canada.

116. After the Class Vehicles were sold and the Defendants became aware of the Ignition Switch Defect, the Defendants did not re-engineer the vehicles or correct those defects. The Defendants placed identical defective components into the Class Vehicles, which they knew would not adequately correct the defects.

117. Specifically, the Defendants failed to disclose at and after the time of purchase, lease and/or repair:

- a) any and all known material defects or material non-conformity of the Class Vehicles; and
- b) that the Class Vehicles were not in good working order, were defective, and were not fit for their intended use.

118. The Defendants have caused the Plaintiffs and the Class Members to expend time and money at their dealerships to repair or replace the Ignition Switch Defect and Electric Power Steering Defect.

## VIII. CAUSES OF ACTION

### a) Negligence

119. At all material times, the Defendants owed a duty of care to the Plaintiffs and to the Classes, and breached the standard of care expected in the circumstances. Once aware of the Ignition Switch Defect and Electric Power Steering Defect, the Defendants had a duty to warn Class Members of the risks associated with the use of the Class Vehicles.

120. The Defendants, as the designers, engineers, manufacturers, co-manufacturers, promoters, marketers and distributors of the Class Vehicles and their component parts, intended for use by ordinary consumers, owed a duty of care to the Plaintiffs and to other members of the Classes to ensure that the Class Vehicles and their component parts, by their design, were reasonably safe for use.

121. The Defendants also owed the Plaintiffs and other Class Members a duty to carefully monitor the safety and post-market performance of the Class Vehicles and their component parts. The Defendants had a duty to warn the Plaintiffs and other Class Members of dangers associated with the use of the Class Vehicles, and to recall those vehicles from the Canadian market upon discovering the Ignition Switch Defect and Electric Power Steering Defect, which could cause property damage, serious personal injury and death, in conditions of ordinary usage.

122. The circumstances of the Defendants being in the business of designing, manufacturing and placing the Class Vehicles and their component parts into the Canadian stream of commerce are such that the Defendants were in a position of legal

proximity to the Class Members, and therefore under an obligation to be fully aware of their safety when designing, manufacturing, assembling and selling a product such as the Class Vehicles and their component parts.

123. It was reasonably foreseeable that a failure by the Defendants to design and manufacture reasonably safe vehicles, and thereafter to monitor the performance of such vehicles following market introduction (and to take corrective measures when required) would cause harm to the Plaintiffs and the other members of the Classes.

124. The Defendants failed to meet the standard of care required in all the circumstances and were negligent in:

- a) the research, design, engineering, development, testing, manufacturing, assembly, distribution, marketing and sale of the Class Vehicles and their component parts;
- b) they knew or ought to have known that the design features of the Class Vehicles and their component parts, including the Ignition Switch Defect and Electric Power Steering Defect, would make them more vulnerable to serious collisions;
- c) they failed to adequately design, manufacture and test the Class Vehicles and their component parts to ensure that they were safe and free from defects prior to selling or distributing them;
- d) they knew or ought to have known that if the Class Vehicles experienced an unexpected shut-down and/or loss of control of the Class Vehicles under conditions of ordinary use, their occupants were at risk of being involved in serious collisions, thereby placing them at risk of severe injuries;

- e) they failed to conduct sufficient or any pre-market testing to establish that the Class Vehicles and their component parts had acceptable safety, stability and crashworthiness features before marketing the vehicles;
- f) they failed to disclose the Ignition Switch Defect in the design of the Class Vehicles and their component parts in a timely manner or at all;
- g) the Defendants continued to sell the Class Vehicles, notwithstanding numerous reports of issues relating to the Ignition Switch Defect resulting, in many cases, in serious collisions involving injury and/or death;
- h) the Defendants failed to properly train their employees responsible for the design, testing, assembly and manufacturing of the Class Vehicles and their component parts;
- i) they failed to ensure that their employees complied with the appropriate quality system standards applicable to the manufacturing process;
- j) they failed to properly supervise their employees and subsidiaries;
- k) they distributed and sold the Class Vehicles and their component parts without conducting tests to ensure they were defect-free;
- l) they knew or ought to have known that the Class Vehicles and their component parts were inherently defective and that the vehicles could not properly perform in the manner for which they were intended;
- m) they failed to take any sufficient steps to cure the fundamental design defects in the Class Vehicles and their component parts after they knew of the defects and the injuries and risks associated with their use;

- n) they failed to warn the Class Members that the Class Vehicles and their component parts were defective when ~~knowledge of~~ the Ignition Switch Defect became known to them;
- o) they preferred their commercial interests over consumer safety;
- p) they concealed and/or delayed disclosing the fact that the Class Vehicles and their component parts suffered from dangerous design defects from the public, including the Class Members; and
- q) they failed to investigate, adequately or at all or in a timely fashion, the reports of collisions and associated injuries and deaths arising from the ordinary use of the Class Vehicles.

125. As a result of the Defendants' acts and omissions described above, the Plaintiffs and the Class Members were unable to make informed decisions about whether or not to purchase, lease, and/or operate the Class Vehicles.

**e) Unjust Enrichment**

126. Stacey and Members of the Owner / Lessee Class state that the Defendants were unjustly enriched as a result of the revenues generated from the sale and lease of the Class Vehicles and their component parts. The Defendants were enriched through the following, as outlined below:

- a) The receipt of revenues from the sale and lease of the Class Vehicles or components thereof at prices which did not reflect the presence of the Ignition Switch Defect and Electric Power Steering Defect, which was

concealed from Stacey and members of the Owner / Lessee Class and not remedied in a timely manner; and

- b) The costs saved from the failure to remedy the Ignition Switch Defect and Electric Power Steering Defect once the Defendants knew or should have known of its existence.

127. Stacey and members of the Owner / Lessee Class have suffered corresponding deprivation as a result of the Defendants' enrichment. The benefits which accrued to the Defendants were unjust in the circumstances and there is no juristic reason for them. The benefits cannot be justified by public policy or the parties' reasonable expectations.

#### **IX. DAMAGES**

128. The Plaintiffs plead that they and the other Class Members would not have purchased, leased, operated or be transported in the Class Vehicles had the Defendants not acted negligently, had the Defendants disclosed the Ignition Switch Defect or Electric Power Steering Defect, and had the Defendants recalled the Class Vehicles in a timely manner.

129. As a result of the negligence of the Defendants, Amanda and the other Injury Class Members suffered the following damages:

- a) serious injury and, in some other cases, death;
- b) emotional and psychological trauma;
- c) expenses related to their medical and other care and treatment;

d) loss of income and associated costs and expenses arising from their injuries;

130. As a result of the Defendants' conduct described above, Edward and the other Family Class Members have suffered damages, including, but not limited to:

a) actual expenses reasonably incurred for the benefit of Class Members;

b) travelling expenses incurred while visiting the Class Members during treatment or recovery;

c) loss of income or the value of services provided for the Class Member where services, including nursing and housekeeping, have been provided;

d) funeral expenses incurred; and

e) compensation for loss of support, guidance, care and companionship that they might have reasonably have expected to receive from the Class Member.

131. A vehicle purchased or leased under the reasonable assumption that it is safe and reliable is worth more than a vehicle of questionable safety, quality and reliability due to the manufacturer's failure to remedy a dangerous defect in a timely manner.

132. Stacey and the other Owner / Lessee Class Members paid more for the Class Vehicles than they would have paid, had the GM companies disclosed the Ignition Switch Defect or Electric Power Steering Defect to them at the time they were buying or leasing the vehicles. The GM companies had a duty to disclose the Ignition Switch Defect promptly upon becoming aware of it. Because the GM companies concealed the Ignition Switch Defect, Stacey and the other Owner / Lessee Class Members did not receive the



benefit of their bargain, and the value of their vehicles was diminished as a result of the GM companies' failures to remedy the Ignition Switch Defect in a timely manner.

133. As a result of the negligence of the Defendants, Stacey and the other Owner / Lessee Class Members suffered the following damages:

- a) loss of income, inconvenience and associated costs arising from the repair of their vehicles;
- b) out-of-pocket expenses associated with loss of use and value of their vehicles;
- c) expenses incurred in attempts to identify and/or rectify the Ignition Switch Defect;
- d) overpayment for the Class Vehicles;
- e) diminution in the value of the Class Vehicles;
- f) future costs of repair of the Class Vehicles; and
- g) such further and other damages the particulars of which will be provided prior to trial.

134. The Plaintiffs and the other members of the Classes are also entitled to recover, as damages or costs in accordance with the *Class Proceedings Act*, 1992, S.O. 1992, c. 6, the costs of administering the plan to distribute the recovery of this action.

**X. PUNITIVE DAMAGES**

135. The Plaintiffs plead that the Defendants have acted in such a high-handed, wanton and reckless manner, without regard to public safety, as to warrant a claim for punitive and aggravated damages.

136. In particular, the Defendants' conduct in the design, development, testing, manufacture, licensing, assembly, distribution, marketing, and sale of the Class Vehicles and their component parts, the failure to recall all Class Vehicles sooner, and the facts pleaded above were entirely without care, deliberate, callous, disgraceful, wilful, and an intentional disregard of the Class Members' rights and safety, indifferent to the consequences, and motivated by economic considerations such as maintaining revenue and market share.

**XI. PROVINCIAL HEALTH INSURERS**

137. The provincial and territorial health insurers in Canada have incurred various expenses with respect to the medical treatment of certain Injury Class Members as a result of the Defendants' negligence. As a result, they have suffered and will continue to suffer damages for which they are entitled to be compensated by virtue of their subrogated and direct rights of action in respect of all past and future insured services. This action is maintained on behalf of all such provincial and territorial health insurers.

**XII. LEGISLATION**

138. The Plaintiffs plead and rely upon, inter alia, the following statutes and the regulations made thereunder (all as amended):

- a) *Alberta Health Care Insurance Act*, R.S.A. 200, c. A-20;
- b) *Class Proceedings Act*, R.S.O. 1992, S.O. 1992, c.6;
- c) *Courts of Justice Act*, R.S.O. 1990, c.43;
- d) *Family Law Act*, R.S.O. 1990, c. F.3;
- e) *Fatal Accident Act*, R.S.N.I. 1990, c. F.6;
- f) *Fatal Accidents Act*, C.C.S.M. c.F.50;
- g) *Fatal Accidents Act*, R.S.A. 2000, c. F-8;
- h) *Fatal Accidents Act*, R.S.N.B. 1973, c.F-7;
- i) *Fatal Accidents Act*, R.S.N.W.T. 1988, c. F-3;
- j) *Fatal Accidents Act*, R.S.P.E.T. 1988, c. F-5;
- k) *Fatal Accidents Act*, R.S.S. 1978, c.F-11, s.3;
- l) *Fatal Accidents Act*, R.S.Y. 2002, c.86;
- m) *Fatal Injuries Act*, R.S.N.S. 1989, c. 163;
- n) *Health Insurance Act*, R.S.O. 1990, c. 11.6;
- *Health Services and Insurance Act*, R.S.N.S. 1989, c. 197;
- p) *Health Services Insurance Act*, C.C.S.M., C.1135;
- q) *Hospital and Diagnostic Services Insurance Act*, R.S.P.E.I. 1988, c. H-8;
- r) *Hospital Insurance Agreement Act*, R.S.N.I. 1990, c.11-7;
- s) *Hospital Insurance and Health and Social Services Administration Act*, R.S.N.W.T. 1988, c. T-3;
- t) *Hospital Insurance Services Act*, R.SY. 2002, c. 112;
- u) *Hospital Services Act*, R.S.N.B. 1973, c. 11-9;
- v) *Hospitals Act*, R.S.A. 2000, c. 11-12;
- w) *Limitations Act, 2002*, S.O. 2002, c. 24, Sch. B;
- x) *Motor Vehicle Safety Act*, S.C. 1993, c. 16;
- y) *Negligence Act*, R.S.O. 1990, c. N.1;

- z) *Trustee Act*, C.C.S.M. c. T160;
- aa) *Trustee Act*, R.S.N.W.T. 1988, c. T-8; and
- bb) *Trustee Act*, R.S.O. 1990, c. T.23.

### **XIII. REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO**

139. There is a real and substantial connection between the subject matter of this action and the Province of Ontario for the following reasons:

- a) the Defendants carry on business in Ontario;
- b) the head office of GM Canada is located in Oshawa, Ontario;
- c) GM Canada operates four manufacturing and assembly plants in Ontario;
- d) the Defendants distribute and sell their products in Ontario and derive substantial revenue from such sales;
- e) the damages of the Plaintiffs, as well as other Class Members resident in Ontario, were sustained in Ontario;
- f) the Defendants marketed their products, including the Class Vehicles, in Ontario; and
- g) the Defendants registered numerous trademarks, including the “GENERAL MOTORS” trademark, with the Canadian Intellectual Property Office in Ottawa, Ontario.

**XIV. SERVICE OUTSIDE OF ONTARIO**

140. This originating process may be served without court order outside Ontario because the claim is:

- a) in respect of a tort committed in Ontario (rule 17.02(g));
- b) in respect of damages sustained in Ontario arising from a tort or breach of contract however committed (rule 17.02(h));
- c) against a person outside Ontario who is a necessary and proper party to this proceeding properly brought against another person served in Ontario (rule 17.02(o)); and,
- d) against a person carrying on business in Ontario (rule 17.02(p)).

**XV. PLACE OF TRIAL**

141. The Plaintiffs propose that this action be tried in the City of Toronto.

DATE: April 11, 2014

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Court File No. CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	TUESDAY, THE 7 <sup>th</sup>
	)	
MR. JUSTICE GLUSTEIN	)	DAY OF MAY, 2024
	)	

B E T W E E N:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AMENDED ORDER**

**THIS MOTION** made by the Plaintiffs, Amanda Oberski, Edward Oberski and Stacey Green, to amend the Certification Order, specifically the Notice Program and the Short and Long Form Notices, dated January 16, 2024 required to implement, in part, the Settlement entered into between the Plaintiffs and the Defendants herein, subject to the terms of the Settlement, was heard in writing at Osgoode Hall, 130 Queen St. W., Toronto, Ontario.

**ON READING** the material filed, including the Settlement Agreement entered into between the Parties hereto on November 1, 2023, a copy of which is attached as Exhibit "A" to



the Affidavit of Vincent Genova which is attached as **Schedule “1”** to this Order and the written submissions of counsel for the Plaintiffs and Defendants;

**AND ON BEING ADVISED** that the Defendants consent to this Order and that JND Legal Administration consents to being appointed the Settlement Administrator for purposes of the Settlement Agreement:

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the capitalized terms not defined in this Order have the definitions set out in the Settlement Agreement.

2. **THIS COURT ORDERS** that this Ontario Action is hereby certified as a class proceeding pursuant to section 5 of the *Class Proceedings Act, 1992* (“CPA”), solely for settlement purposes and subject to the terms of the Settlement Agreement and the conditions set out therein, on behalf of the following class of persons (the “National Settlement Class”):

All Persons resident in Canada other than Excluded Persons and other than Persons whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada.

3. **THIS COURT ORDERS** that the Delta Ignition Switch Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall.

4. **THIS COURT ORDERS** that the Key Rotation Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall.

5. **THIS COURT ORDERS** that the Camaro Knee-Key Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall.

6. **THIS COURT ORDERS** that the Electric Power Steering Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall.

7. **THIS COURT ORDERS** that Stacey Green be appointed as the Settlement Class Representative for the National Settlement Class.

8. **THIS COURT ORDERS** that the following common issue is certified, for settlement purposes only, pursuant to the *CPA*:

Did any of the Defendants owe a duty of care to National Settlement Class members and if so, what was the standard of care?

9. **THIS COURT ORDERS** that all alleged class claims for wrongful death, personal injury, claims under the *Family Law Act* (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle are hereby discontinued.

10. **THIS COURT ORDERS** that the Revised Short-Form Certification Notice, substantially in the form attached as Exhibit “C” to the Affidavit of Jennifer Keough (which is attached as **Schedule “2”** to this Order), and the Revised Long-Form Certification Notice, substantially in the form attached as Exhibit “D” to the Affidavit of Jennifer Keough, are hereby approved.

11. **THIS COURT ORDERS** that the Revised Short-Form Certification Notice and the Revised Long-Form Certification Notice shall be published and disseminated substantially in accordance with the Revised Notice Program, which is attached as Exhibit “B” to the Affidavit of Jennifer Keough.

12. **THIS COURT ORDERS** that the form and manner of notice as set out in the Revised Short-Form Certification Notice, the Revised Long-Form Certification Notice, and the Revised

Notice Program as approved herein constitutes sufficient notice to all persons entitled to notice and satisfies the requirements of notice under sections 17 and 19 of the *CPA*.

13. **THIS COURT ORDERS** that the Settlement Approval Hearing in Ontario will proceed via videoconference on July 30, 2024 at 10:00 a.m.

14. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing in Ontario be stated in the Revised Short-Form Certification Notice and the Revised Long-Form Certification Notice, subject to any adjournment by the Court without further notice to the National Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator.

15. **THIS COURT ORDERS** that JND Legal Administration shall be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement.

16. **THIS COURT ORDERS** that National Settlement Class members may opt out and exclude themselves from this proceeding by contacting JND Legal Administration, in writing, no later than the Opt-Out Deadline, being sixty (60) days after the Certification Notice is first published or disseminated.

17. **THIS COURT ORDERS** that the Opt-Out Deadline be stated in the Revised Short-Form Certification Notice and Revised Long-Form Certification Notice.

18. **THIS COURT ORDERS** that National Settlement Class members may exclude themselves from this proceeding only in accordance with the directions set out in section 10 of the Settlement Agreement, by the Opt-Out Deadline.

19. **THIS COURT ORDERS** that all National Settlement Class members who do not validly opt out of this proceeding by the Opt-Out Deadline shall be bound as of the Effective Date by all

terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.

20. **THIS COURT ORDERS** that National Settlement Class members who wish to file with the Court an objection to the Settlement shall deliver a written statement to JND Legal Administration at the address indicated in the Revised Short-Form Certification Notice or Revised Long-Form Certification Notice no later than the Objection Deadline, being sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.

21. **THIS COURT ORDERS** that any party affected by this Order may apply to the Court for further directions.

22. **THIS COURT ORDERS** that this Order be interpreted consistently with the parallel order made by the Superior Court of Québec on May 6, 2024, which is attached as **Schedule “3”** to this Order, and the terms of this Order are effective immediately.

23. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including certification of the National Settlement Class for settlement purposes and all written elections to opt-out delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.



THE HONOURABLE JUSTICE GLUSTEIN

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# **Schedule '1''**

**Schedule "1"**

C A N A D A

S U P E R I O R C O U R T  
(Class Action)

---

PROVINCE OF QUEBEC DISTRICT  
OF MONTREAL

MICHAEL GAGNON

N<sup>o</sup> : 500-06-000687-141

*Applicant*

-VS-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

---

C A N A D A

S U P E R I O R C O U R T  
(Class Action)

---

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

MICHAEL GAGNON

N<sup>o</sup> : 500-06-000729-158

*Applicant*

-VS-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

---

**SOLICITOR'S AFFIDAVIT OF VINCENT GENOVA  
(Consent Authorization and Notice Approval)  
(Sworn March 14, 2024)**

---

I, **VINCENT GENOVA**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY**

1. I am a lawyer at the law firm of Rochon Genova LLP, Co-Lead Counsel for the Plaintiffs in these proposed class proceedings. Along with Joel Rochon, I founded Rochon Genova in 1999.

## I. BACKGROUND

2. While I am not formally part of the counsel team on these Actions on a daily basis, I have been kept closely apprised of developments since these Actions were commenced beginning in March 2014, and I have specific knowledge of the matters to which I hereinafter depose. Where that knowledge is based on information and belief, I have indicated the source of that information, and believe it to be true.
3. I swear this affidavit in support of this motion to have the within proceedings authorized as a class proceeding in accordance with a settlement reached between the Parties, approval of the Notice Program including the Short-Form Authorization Notice, Long-Form Authorization Notice and the appointment of JND Legal Administration (“JND”) as the Settlement Administrator, the setting of the Opt-Out and Objection Deadline, the setting of the date and time of the Settlement Approval Hearing in Quebec, and the modification of the Applications for Authorization to have them accord with the Settlement Agreement and to remove all class claims in these actions for wrongful death, personal injury/moral damages (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.

## II. DEFINED TERMS

4. All capitalized defined terms used in this affidavit have the meanings ascribed in the Settlement Agreement executed by the Parties, a true copy of which is attached hereto as **Exhibit “A”**.

## III. OVERVIEW

5. These proceedings arise from a dangerous defect in millions of ignition switches designed and installed by the Defendants in certain vehicles from 1997 onwards. Vehicles containing these defective ignition switches only began to be recalled by the Defendants in February 2014.
6. On March 19, 2014, the Plaintiff brought an Application for Authorization against the Defendants General Motors of Canada and General Motors Company regarding an alleged ignition switch defect (the “**Quebec IS Action**”).



7. On January 23, 2015, the Plaintiff brought another Application against the same Defendants regarding an alleged electric power steering defect (the “**Quebec EPS Action**”, collectively with the Quebec IS Action the “**Quebec Actions**”).
8. The proposed **Quebec Actions** are in addition to another substantially similar proposed class action in Ontario regarding the ignition and power steering defects which was issued on April 11, 2014: *Amanda Oberski, Edward Oberski and Stacey Green v. GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED*, File No.: CV-14-502023-00CP (the “**Ontario Action**”)
9. The principal allegation in both the Quebec Actions and the Ontario Action is that the subject ignition switches are prone to too-easy rotation and so can inadvertently move from the “run” position to the “accessory” or “off” position while the vehicle is in motion, resulting in a shutdown of the vehicle’s electrical system, complete loss of engine power and steering/braking assists, and disabling of the airbags. This defect is dangerous and has been associated with serious injuries and deaths.
10. Attached hereto as **Exhibits “B” and “C”** are copies of the operative Motions for Authorization in the **Quebec Actions**.
11. The Defendants deny many of the Plaintiffs’ allegations and do not admit liability.
12. Notwithstanding the Parties’ divergent views on liability, they ultimately recognized the value in seeking a non-litigation resolution of these proceedings and after several rounds of negotiations and mediations, the terms of a national class settlement were finally agreed to.

#### IV. PROCEDURAL HISTORY

13. The **Quebec IS Action** was commenced on March 19, 2014 in Montreal. The **Quebec EPS Action** was commenced on January 23, 2015, also in Montreal.
14. A number of parallel actions were also commenced across the country in respect of the subject recalls, in the same timeframe (collectively, “**Related Actions**”):
  - a) the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

- b) the action in the Saskatchewan Court of Queen's Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* ("**Herbel Action**");
- c) the action in the Saskatchewan Court of Queen's Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* ("**Hall Action**");
- d) the action in the Saskatchewan Court of Queen's Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* ("**Fradette Action**");
- e) the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* ("**Coen Action**");
- f) the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* ("**Standingready Action**");
- g) the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* ("**Seeley Action**");
- h) the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* ("**Spicer Action**");
- i) the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* ("**Brown Action**");
- j) the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* ("**Mulford Action**");
- k) the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* ("**Dunphy Action**");
- l) the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* ("**Academie Action**").

15. Plaintiffs' counsel in the **Quebec IS Action**, the **Quebec EPS Action**, the **Ontario Action**, and the **Related Actions**, subsequently entered into a consortium (the "Consortium") to prosecute these actions on a national basis, using the **Ontario Action** as the principal vehicle to advance those claims.
16. Pursuant to the Order of Justice Mark G. Peacock, J.S.C., dated November 16, 2017, attached hereto as **Exhibit "D"**, authorization motions in these two Quebec putative class actions were subsequently stayed, "pending the outcome in other similar Ontario and American proceedings."
17. Parallel economic loss class claims were filed in the United States in 2014 and litigated in the *In re: General Motors LLC Ignition Switch*, No. 14-MDL-2543 (JMD), Multi-District Litigation matter in the United States District Court for the Southern District of New York. The economic loss class claims in the U.S. litigation were resolved via a nationwide class certified for settlement purposes only, which was preliminarily approved by the MDL 2543 court on April 27, 2020, and finally approved by the MDL 2543 court on December 18, 2020.
18. The certification record in the **Ontario Action** was delivered on June 29, 2020. At the same time that the various steps were being taken in the litigation context, Class Counsel and counsel for the Defendants periodically canvassed the possibilities for resolving the cases. Informal steps in that regard began in or about the third quarter of 2020.
19. Negotiations proceeded on two parallel tracks:
  - a) In order to resolve personal injury, wrongful death, and related dependent claims, the parties engaged in a one-day mediation in Chicago on November 10, 2021, and a one-day virtual mediation on May 31, 2023, assisted by Daniel J. Balhoff, a third party neutral, who also served as mediator for such claims alleged against the Defendants in the United States; and
  - b) In order to resolve the economic loss claims, the parties engaged the mediation services of former Supreme Court of Canada Justice, the Honourable Thomas A. Cromwell. The parties held a series of mediation sessions, including on March 26, 2021, December 6, 7, 2021, May 16, 2022 and October 6, 2022.

20. On November 1, 2023, the Plaintiffs in the **Quebec Actions** and the **Ontario Action** entered into a Settlement Agreement to resolve the actions (on a national basis). Subject to this Honourable Court's approval, this Settlement agreement settles all claims asserted by the Quebec Settlement Class.
21. The proposed settlement does not apply to claims for personal injury/moral damages (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recall.
22. In furtherance of the proposed settlement, on this motion the Plaintiff seeks to amend the Applications for Authorization in both the **Quebec IS Action** and the **Quebec EPS Action** to have them accord with the Settlement Agreement and to remove allegations regarding wrongful death, personal injury/moral damages (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
23. Consortium counsel collectively agreed that the focus of these proceedings should be on attempting to resolve personal injury/moral damages and fatality claims that the Consortium had been aware of for years within their databases rather than attempting to resolve these cases in the same context as the economic loss claims.
24. Importantly, individuals with personal injury/moral damages and fatality claims will be advised, through the Notice Program, that these actions will be no longer covered by these class proceedings. Any individuals seeking to advance personal injury/moral damages and fatality claims will be permitted to issue fresh claims in the Canadian jurisdictions where such claims are permitted as the limitation period has been tolled for those individuals.
25. As a result, the Plaintiff seeks to remove these allegations from the **Quebec Actions**. These individual claims will not be waived or released by the approval of the Settlement.
26. In broad terms, in exchange for this economic loss settlement including the resolution of all Canadian class action litigation related to the Delta Ignition Switch Recall, Key Rotation Recall, Camaro Knee-Key Recall, and Electric Power Steering Recall:
- a) A \$12 million CAD Settlement Fund will be established, which will be used to pay compensation to Settlement Class Members nationally with eligible economic loss claims. The

Plaintiffs' Counsel Fee Amount will be paid separately and in addition to the \$12 million Settlement Fund Amount. The \$12 million Settlement Fund Amount is the full and total amount to be paid by the Defendants in this Settlement, other than the Plaintiffs' Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of the Settlement Agreement;

- b) personal injury or wrongful death claimants, and claimants under the *Family Law Act* (and analogous legislation in other provinces), known to the Consortium and identified in the confidential settlement agreements will be eligible to participate in an aggregate settlement process set forth in the confidential settlement agreements entered into on their behalf by the Consortium with Defendants, in which Mr. Daniel Balhoff, an experienced third party neutral who facilitated the settlement of such claims in the United States, examines each claimant's individual documents and allocates a confidential settlement amount to each claim in exchange for a release, provided other terms and conditions of the settlement are met. No claims in respect of personal injury, wrongful death or under the *Family Law Act* (and analogous legislation) will be certified in the **Ontario Action** or the **Québec Actions** and the Settlement Class Members' Release does not include the release of any individual claims for personal injury, wrongful death or actual physical property damage. It is a condition of the Settlement that such *class* claims be discontinued or removed from the **Ontario Action** and **Québec Actions** and we have received instructions from the Plaintiffs to discontinue those class claims, including from Michael Gagnon, Amanda Oberski and Edward Oberski who were respectively the proposed representative plaintiffs for the proposed "Injury Class" and "Family Class" in the operative Applications for Authorization/Statements of Claim and before the Settlement was reached. If any claims in these categories are not resolved through the aggregate settlement process established by the parties, then the individuals involved can pursue individual litigation against GM.

27. By way of context, on January 16, 2024, Justice Perell of the Ontario Superior Court of Justice, among other things, certified the **Ontario Action** and the National Settlement Class for the purposes of settlement; appointed

JND Legal Administration as Settlement Administrator to perform the duties set out in the Settlement Agreement; and approved the Short-Form Certification Notice, Long-Form Certification Notice and the Notice Program.

28. If the Quebec Court authorizes these actions, and if it approves the Settlement Agreement, then counsel shall seek their dismissal, with prejudice.

## V. AUTHORIZATION

29. For the reasons set out below, and based on the facts discussed above, I believe that the **Quebec Actions** are suitable for authorization for the purpose of giving effect to the Settlement, and that they satisfy the criteria for authorization.

### a) Causes of Action

30. As a result of the proposed Settlement, there are no causes of action to be tried on a contested basis. However, for the purposes of the motion for consent authorization, I believe that the pleadings in the **Quebec Actions** both disclose sufficient causes of action against the Defendants for the purposes of Settlement that permit the Settlement Class Members to understand the scope of the claims being settled and the scope of the releases to which they will be bound unless they validly opt out. In particular, the pleadings allege that various duties of care were owed to the Plaintiffs and other class members by the Defendants and that the Defendants breached those duties resulting in loss to the Plaintiffs and class members.

### b) Identifiable Class

31. There are identifiable classes of two or more persons that would be represented by the representative Plaintiff for the purposes of the Settlement. The Settlement Agreement defines the Settlement Class as follows:

2.64 “**Settlement Class**” means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada. The Settlement

Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

32. The Subclasses are defined as:

2.72 “**Subclasses**” means each of the four subclasses as follows:

2.72.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and

2.72.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and

2.72.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and

2.72.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).

2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

33. The Quebec Settlement Class is defined as:

2.52 “**Québec Settlement Class**” means all Settlement Class Members whose Subject Vehicles are identified based on



reasonably available information from GM as having been first retail sold in Québec.

34. The National Settlement Class is defined as:

2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.

35. Pursuant to the Settlement Agreement, the Ontario Action was certified as a single Canada-wide (except the Quebec Settlement Class) class proceeding in Ontario for settlement purposes on behalf of the National Settlement Class.

36. The National Settlement Class is an identifiable class for the purposes of the proposed Settlement, which permits Class Members to be identified objectively based on proof of purchase and/or lease of the Subject Vehicles.

37. The National Settlement Class and Quebec Settlement Class definitions are not of unlimited membership and are defined in objective terms, without reference to the merits of the proceedings. The definition allows the identification of those persons who have a potential claim and those who will be bound by the proposed Authorization Order and terms of the Settlement. Further, the definition of the classes identifies the persons to whom notice should be provided.

### c) Common Issue

38. As a result of the proposed Settlement, there are no common issues for determination on a contested basis, however, for the purpose of the motion for consent authorization, it is proposed that this Court certify this action, to give effect to the Settlement, on the basis of the following common issue agreed to by the parties for settlement purposes only:

Are the defendants liable to the Quebec Settlement Class members for a defect in the Subject Vehicles and resulting economic loss?

39. This common issue agreed to by the parties for settlement purposes only raises common issues of fact and law to the extent necessary for the purposes of the Settlement.



**e) Representative Plaintiff**

40. The proposed Representative Plaintiff in both Quebec Actions, Michael Gagnon, has demonstrated that he is capable of fairly and adequately representing the Classes. He has diligently pursued, with the assistance of counsel, the litigation over the years. There is no evidence that he has an interest in conflict with the interests of other Class Members.
41. In the context of the contested proceedings, the Representative Plaintiff produced a litigation plan which, it is proposed, can be replaced with the proposed procedures for the administration of claims under the Settlement, as detailed in the Settlement Agreement and the attached exhibits.

**VI. NOTICE AND NOTICE PROGRAM**

42. The Parties have agreed on the content of an Authorization Notice that has been designed to provide information to Settlement Class Members about the authorization of the Quebec Actions, the terms of the Settlement Agreement, the right to opt out of the certified proceeding, along with information about the Settlement Approval Hearing and the right to object to the Settlement or intervene.
43. The proposed manner in which the Authorization Notice is to be distributed and disseminated is set out in the Notice Program, which was designed in consultation with JND Legal Administration.
44. In brief, the Notice Program incorporates elements of direct mailing/emailing notification, supplemented by a print media campaign, a digital/social media campaign, along with bilingual press releases and website notification. In particular, my firm has been advised by Michael Smith, counsel for GM at Bennett Jones, that GM will be providing email addresses for approximately 125,000 GM class members to the Settlement Administrator, JND, who will be disseminating the short form notices by email with a hyperlink to the long form notice. Michael Smith has further advised that the total eligible vehicle population is 1,219,809.
45. The principal goal of the Notice Program is to achieve effective, practicable Settlement Class Member reach across Canada while being cost-effective and proportional. JND estimates 72.9% reach as stated in the Affidavit of Jennifer Keough.
46. The cost of Settlement Administration, including notice, will be paid from the \$12 million CAD Settlement Fund Amount. The Notice Program is designed to inform Class Members about the authorization of the proceedings (along

with their right to opt out, object, and intervene) and to raise their awareness of the Settlement and to facilitate their understanding of the claims process.

47. Further details of the Notice Program and its rationale and design are more fully set out in the affidavit sworn by Jennifer Keough, Chief Executive Officer and Founder of JND and filed in support of this motion.

**VII. SETTLEMENT ADMINISTRATOR**

48. JND has been proposed by the Parties to be the Settlement Administrator, should the Settlement be approved, and to be appointed to perform various pre-approval tasks such as establishing the bilingual settlement website, a toll-free telephone number, reporting on Opt-Outs and objections, and implementing the Notice Program.

49. Jennifer Keough, Chief Executive Officer and Founder of JND, a respected and experienced settlement administrator, will also be filing an affidavit setting out her firm’s professional experience in class action settlement administration. The Parties endorse this appointment.

50. I swear this affidavit in support of the motion for consent authorization for settlement purposes, approval of the Short-Form Authorization Notice, Long-Form Authorization Notice and the Notice Program, the appointment of JND as the Settlement Administrator, the setting of the Opt-Out Deadline and Objection Deadline, the setting of the date and time of the Settlement Approval Hearing in Ontario, and the modification of the Applications for Authorization to have them accord with the Settlement Agreement and to remove all alleged class claims in the Quebec Actions for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, and for no other purpose.

SWORN before me in the )  
City of Toronto, in the Province of )  
Ontario, this 14<sup>th</sup> day of March, )  
2024 )  
*Sarah Fiddes* )  
\_\_\_\_\_)  
A Commissioner, etc.

  
\_\_\_\_\_  
**VINCENT GENOVA**

Court File No. CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiff

-and-

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known as  
GENERAL MOTORS OF CANADA COMPANY)

Defendants

Court File No. 500-06-000687-141

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

Court File No. 500-06-000729-158

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SETTLEMENT AGREEMENT**

Dated as of November 1, 2023

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F	Initial Press Release
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## 1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts and without any admission or concession of liability or wrongdoing or lack of merit in their defenses by the Released Parties, all class claims asserted in the Actions and Related Actions by the Settlement Class Members (the “**Settlement**”).

Following negotiations facilitated by a mediator, The Honourable Justice Thomas Cromwell, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

Pursuant to this Settlement, benefits shall be offered to Settlement Class Members claiming economic loss in relation to a Subject Vehicle. All class claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage arising from an accident involving a Subject Vehicle shall be discontinued or removed, and claimants may instead pursue claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage individually.

Only after agreeing to the principal terms set forth in this Settlement Agreement, the Parties, with additional facilitation by The Honorable Justice Thomas Cromwell as mediator, negotiated the Plaintiffs’ Counsel Fee Amount, an amount that is separate and apart from the benefits provided to the Settlement Class in this Settlement Agreement.

## 2. DEFINITIONS

As used in this Settlement Agreement and its attached schedules, which schedules are an integral part of this Settlement Agreement and are incorporated by reference in their entirety, the following capitalized terms have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in this Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**AAT**” means the Motors Liquidation Company Avoidance Action Trust established pursuant to the Old GM Plan.

- 2.2 “**AAT Administrator**” means Wilmington Trust Company, solely in its capacity as trust administrator and trustee of the AAT pursuant to the Fourth Amended and Restated Motors Liquidation Company Avoidance Action Trust Agreement, dated as of February 25, 2019, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**AAT Agreement**”).
- 2.3 “**AAT Monitor**” means Arthur J. Gonzalez, solely in his capacity as trust monitor of the AAT pursuant to the AAT Agreement.
- 2.4 “**Actions**” means the following three (3) actions:
- 2.4.1 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (“**Ontario Action**”);
- 2.4.2 the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.* (the “**Québec Actions**”);
- 2.5 “**Actions Counsel**” means the various Settlement Class Members’ counsel who filed, or who have any claim for, or interest in, legal fees and disbursements in any way, directly or indirectly, related to, the Actions and the Related Actions, including Rochon Genova LLP, Kim Spencer McPhee P.C., LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, Merchant Law Group and Wagners.
- 2.6 “**Administrative Expenses**” means the fees and disbursements of, or incurred by, the Settlement Administrator to perform the duties and services in implementing this Settlement Agreement, including the cost of all notices to Settlement Class Members, all fees and costs of the accountant utilized by the Settlement Administrator to administer deposits to and disbursements from the escrow account containing the Settlement Fund Amount, all fees and costs to implement and

administer the Claims Program, as well as all fees and costs of maintaining an escrow account containing the Settlement Fund Amount (e.g., bank fees).

- 2.7 “**Adjusted Base Payment Amount**” has the meaning ascribed in Section 4.3.2.
- 2.8 “**Amendment Order**” means the order of the Superior Court of Québec granting the amendment of the pleadings in the Québec Actions to name only General Motors LLC and General Motors of Canada Company as defendants and to remove references to “mental distress”, “psychological and emotional distress”, “anxiety”, “fear” and “moral damages”.
- 2.9 “**Approval Notice**” means the English and French versions of the notice to Settlement Class Members substantially in the form attached to this Settlement Agreement as **Schedule “D”**, advising of the approval by the Courts of this Settlement, that the Effective Date has occurred, the commencement date of the Claims Program, the Claims Deadline, the Final Recall Repair Date, the Settlement Website, and how to access the Claims Program.
- 2.10 “**Approval Orders**” means the orders and/or judgments of the Courts approving the Settlement provided for in this Settlement Agreement without any modifications, approving the Approval Notice, and granting the Settlement Class Members’ Release.
- 2.11 “**Base Payment Amount**” has the meaning ascribed in Section 4.3.1.
- 2.12 “**Certification Notice**” means the English and French versions of the Short-Form Certification Notice and Long-Form Certification Notice to Settlement Class Members substantially in the forms attached to this Settlement Agreement as **Schedules “B”** and **“C”**, respectively, advising of the certification/authorization of the Actions for settlement purposes only; the address of the Settlement Website; the Opt-Out Deadline and procedure for opting out of this Settlement; the Objection Deadline and procedure for objecting to this Settlement; and, as approved by the Courts, the removal or discontinuance of all alleged class claims for wrongful death or personal injury (including *Family Law Act* (Ontario) or analogous claims) or



actual physical property damage arising from an accident involving a Subject Vehicle.

- 2.13 “**Certification Orders**” means the orders of the Courts (a) certifying/authorizing the Actions for settlement purposes only with respect to the National Settlement Class and the Québec Settlement Class; (b) appointing the Settlement Administrator; (c) approving the Notice Program and Certification Notice; and (d) setting the Opt-Out Deadline and Objection Deadline.
- 2.14 “**Claim**” means a properly completed Claim Form pertaining to a single Subject Vehicle submitted by or on behalf of a Claimant with all required supporting documentation to the Settlement Administrator on or before the Claims Deadline.
- 2.15 “**Claim Form**” means the document that enables a Claimant to apply for benefits under this Settlement Agreement, substantially in the form attached to this Settlement Agreement as **Schedule “E”**.
- 2.16 “**Claimant**” means a Person who purports to be a Settlement Class Member who completes and submits a Claim Form on or before the Claims Deadline, either directly or through their estate or legal representative.
- 2.17 “**Claims Deadline**” means the deadline by which a Claimant must submit a complete and valid Claim, which, subject to Section 15.11, shall be one hundred twenty (120) days from the Effective Date.
- 2.18 “**Claims Program**” means the program that the Settlement Administrator shall use to review and assess the eligibility of Claims, and to determine the benefits that Eligible Claimants are to receive under this Settlement Agreement, as described in Section 7 of this Settlement Agreement.
- 2.19 “**Co-Lead Counsel**” means Rochon Genova LLP and Kim Spencer McPhee Barristers P.C., as defined in the order of Perell J. dated October 11, 2016.
- 2.20 “**Courts**” means the Ontario Superior Court of Justice and the Superior Court of Québec.

- 2.21 “**Deficiency Notice**” has the meaning ascribed in Section 7.8.
- 2.22 “**Discontinuance Order**” means the order of the Ontario Superior of Justice discontinuing all alleged class claims in the Ontario Action for wrongful death, personal injury, claims under the *Family Law Act* (Ontario) (and analogous legislation in other Provinces), and/or claims for actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
- 2.23 “**Effective Date**” means the first business day after the last of the Required Orders becomes Final and so long as GM does not exercise its unilateral termination right provided for in Section 10.11, or a date thereafter that is agreed to in writing by the Parties.
- 2.24 “**Eligible Claim**” means a Claim that the Settlement Administrator has determined to be eligible to receive benefits under this Settlement Agreement pursuant to the process set forth in Section 7 of this Settlement Agreement.
- 2.25 “**Eligible Claimant**” means a Settlement Class Member who has submitted an Eligible Claim.
- 2.26 “**Excluded Persons**” means the following Persons
- 2.26.1 authorized GM dealers;
  - 2.26.2 daily rental fleet purchasers, owners and lessees (that is a Person engaged in the business of rental of passenger cars, without drivers, to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals) which shall be based upon GM data that it provides to the Settlement Administrator and shall be determinative;
  - 2.26.3 governmental or quasi-governmental bodies;
  - 2.26.4 the judicial officers presiding over the Actions and Related Actions and their immediate family members;

- 2.26.5 Actions Counsel as well as members of their staff and immediate family;
- 2.26.6 all Persons who have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls whose names shall be provided by GM to the Settlement Administrator; and
- 2.26.7 valid Opt-Outs.
- 2.27 “**Final**” means, in respect of any Required Orders contemplated by this Settlement Agreement, the issued and entered orders are upheld on any appeal or the time limit for any such appeal has lapsed.
- 2.28 “**Final Base Payment Amount**” has the meaning ascribed in Section 4.3.7.
- 2.29 “**Final Recall Repair Date**” means one hundred eighty (180) days after the Effective Date.
- 2.30 “**GM**” means New GM and GM Canada collectively.
- 2.31 “**GM Canada**” means General Motors of Canada Company (formerly General Motors of Canada Limited).
- 2.32 “**GUC Trust**” means the Motors Liquidation Company GUC Trust established pursuant to the Old GM Plan.
- 2.33 “**GUC Trust Administrator**” means Wilmington Trust Company, solely in its capacity as GUC Trust Administrator and Trustee of the GUC Trust pursuant to the Second Amended and Restated Motors Liquidation Company GUC Trust Agreement, dated as of July 30, 2015, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**GUC Trust Agreement**”).
- 2.34 “**GUC Trust Monitor**” means FTI Consulting, Inc., solely in its capacity as trust monitor of the GUC Trust pursuant to GUC Trust Agreement.
- 2.35 “**Joint Retention Agreement**” has the meaning ascribed in Section 5.2.

- 2.36 “**Long-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “C”**.
- 2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.
- 2.38 “**Net Settlement Amount**” means the amount determined by deducting from the Settlement Fund Amount (a) Administrative Expenses; (b) any honouraria payments that are to be paid to plaintiffs as awarded by the Courts; and (c) any taxes required to be paid with respect to the Settlement Fund Amount or amounts withheld by the Settlement Administrator to cover anticipated future tax liabilities as provided for in Section 6.5.2.
- 2.39 “**New GM**” means General Motors LLC.
- 2.40 “**Notice Program**” means the program for the publication and dissemination of the Settlement Class Notices as agreed by the Parties in consultation with the Settlement Administrator and as approved by the Courts in the Certification Orders.
- 2.41 “**Objection Deadline**” means the deadline for Settlement Class Members to object to this Settlement, which shall be sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.
- 2.42 “**Old GM**” means Motors Liquidation Company f/k/a General Motors Corporation.
- 2.43 “**Old GM Bankruptcy Estates**” means the Debtors’ (as defined in the Old GM Plan) estates created upon the commencement of the chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, captioned *In re Motors Liquidation Corporation, et al. f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG), including, without limitation, all property, rights, defenses and claims included therein.
- 2.44 “**Old GM Plan**” means the *Debtors’ Second Amended Joint Chapter 11 Plan*, dated March 18, 2011, and as confirmed by the United States Bankruptcy Court for the Southern District of New York on March 29, 2011.

- 2.45 “**Opt-Outs**” means all Persons meeting the definition of Settlement Class Members who have submitted timely requests for exclusion from this Settlement in conformity with the procedural and substantive requirements of this Settlement Agreement and the Certification Orders, prior to the Opt-Out Deadline, and who do not revoke such request for exclusion prior to the Opt-Out Deadline or other date as ordered by the Court.
- 2.46 “**Opt-Out Deadline**” means sixty (60) days after both Certification Orders have been entered by the Courts.
- 2.47 “**Parties**” means the Settlement Class Representatives, Co-Lead Counsel and GM.
- 2.48 “**Person(s)**” means an individual, corporation, business, company, firm, partnership, association, proprietorship, trust, estate, governmental or quasi-governmental body, or any other entity or organization.
- 2.49 “**Plaintiffs’ Counsel Fee Amount**” means such funds as may be approved and awarded in the aggregate by the Courts, pursuant to Plaintiffs’ Counsel Fee Amount Orders, as the full and total amount of fees, expenses, costs, disbursements and associated taxes that GM shall pay to compensate any and all plaintiffs’ counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, and that shall not, under any circumstances exceed CA\$4,397,500.00 (four million, three-hundred and ninety seven thousand and five hundred Canadian dollars) (the “**Maximum Plaintiffs’ Counsel Fee Amount**”).
- 2.50 “**Plaintiffs’ Counsel Fee Amount Orders**” means the orders of both Courts approving the payment to Actions Counsel of the Plaintiffs’ Counsel Fee Amount.
- 2.51 “**Preliminary Administrative Expenses**” has the meaning ascribed in Section 5.2 and are part of the Administrative Expenses.

2.52 “**Québec Settlement Class**” means all Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.

2.53 “**Recalls**” means the GM vehicle recalls covered by the following Transport Canada Recall Numbers:

2.53.1 2014-038, 2014-060, and 2014-101 (collectively the “**Delta Ignition Switch Recall**”);

2.53.2 2014-273, 2014-246, and 2014-284 (collectively the “**Key Rotation Recall**”);

2.53.3 2014-243 (the “**Camaro Knee-Key Recall**”); and

2.53.4 2014-104 (the “**Electric Power Steering Recall**”).

2.53.5 For purposes of cross-reference, the below table lists the GM Recall Numbers and Transport Canada Recall Numbers for each of the Recalls:

	GM Recall Number	Transport Canada Recall Number
<b>Delta Ignition Switch Recall</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
<b>Key Rotation Recall</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key Recall</b>	14294	2014-243
<b>Electric Power Steering Recall</b>	14115	2014-104
	14116	
	14117	
	14118	

2.54 “**Recall Announcement Date**” means the certain date in the chart below that is the end of the month following the month of GM’s last initial notification to owners/lessees of each Recall, according to GM's internal data. For a Subject

Vehicle subject to more than one of the Recalls, the Recall Announcement Date shall be the later of the dates in the chart below:

	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	13454	2014-038	September 30, 2014
	14063	2014-060	
	14092	2014-101	
Key Rotation Recall	14172	2014-273	November 30, 2014
	14497		
	14299	2014-246	
	14350	2014-284	
Camaro Knee-Key Recall	14294	2014-243	October 31, 2014
Electric Power Steering Recall	14115	2014-104	February 28, 2015
	14116		
	14117		
	14118		

2.55 “**Recall Repair Deficiency Notice**” has the meaning ascribed in Section 7.11.

2.56 “**Related Actions**” means the twelve (12) actions listed below:

2.56.1 the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

2.56.2 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (“**Herbel Action**”);

2.56.3 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (“**Hall Action**”);

2.56.4 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (“**Fradette Action**”);

2.56.5 the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (“**Coen Action**”);

2.56.6 the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (“**Standingready Action**”);

2.56.7 the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (“**Seeley Action**”);

2.56.8 the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (“**Spicer Action**”);

2.56.9 the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (“**Brown Action**”);

2.56.10 the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (“**Mulford Action**”);

2.56.11 the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (“**Dunphy Action**”);

2.56.12 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (“**Academie Action**”);

2.57 “**Released Claims**” has the meaning ascribed in Section 11.3.

2.58 “**Released Parties**” means each of the following persons and entities, jointly and severally, individually and collectively (individually, “**Released Party**”):



2.58.1 General Motors of Canada Limited (now known as General Motors of Canada Company), General Motors Company, General Motors LLC, General Motors Holdings LLC, Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.;

2.58.2 Any and all Persons, including dealerships, involved in any of the design, manufacture, assembly, testing, sale, repair, marketing, advertising, inspection, maintenance, recall, or distribution of a Subject Vehicle;

2.58.3 Any and all suppliers of materials, components, and/or services used in the manufacture of a Subject Vehicle;

2.58.4 General Motors Corporation, Motors Liquidation Company, the GUC Trust Monitor, the GUC Trust Administrator, the GUC Trust, any former, current, or future holder of Units (as defined in the GUC Trust Agreement) issued by the GUC Trust (“**Unitholders**”), the AAT, the AAT Administrator, the AAT Monitor, the Old GM Bankruptcy Estates, and any other trust established by the Old GM Plan to hold or pay liabilities of Old GM; and

2.58.5 Any and all past, present and future officers, directors, agents, employees, servants, associates, spouses, representatives, subsidiaries, affiliated companies, parent companies, joint-ventures and joint-venturers, partnerships and partners, members, stockholders, shareholders, bondholders, Unitholders, beneficiaries, trustees, insurers, reinsurers, dealers, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, divisions, agents, agents’ representatives, lawyers, administrators, advisors, predecessors, successors, heirs, executors and assignees of any of the above.

2.59 “**Releasing Parties**” means the Settlement Class Members who are not Opt-Outs, each on behalf of themselves and their heirs, beneficiaries, estates, executors, administrators, representatives, agents, counsel, insurers, reinsurers, subsidiaries, corporate parents, predecessors, successors, indemnitors, subrogees, assigns, and any legal, juridical, or natural person or entity who may claim, by, through, under or on behalf of them.

2.60 “**Required Orders**” means:

2.60.1 The following issued, entered, and Final orders by the Courts: (a) the Amendment Order; (b) the Discontinuance Order; (c) the Certification Orders; and (d) the Approval Orders; and

2.60.2 Issued, entered, and Final orders dismissing the Related Actions with prejudice and without costs.

2.61 “**Settlement Administrator**” means the third-party agreed to by the Parties to administer the Settlement pursuant to the terms and conditions of this Settlement Agreement and applicable Required Orders with such administration to include, but not be limited to, administration of the Settlement Class Notices, administration of the Claims Program, implementing and administering the Settlement Website, opening an escrow account into which the Settlement Fund Amount shall be deposited and making disbursements from the Settlement Fund Amount to pay Administrative Expenses and to make settlement payments to Eligible Claimants.

2.62 “**Settlement Agreement**” means this settlement agreement, including its schedules, exhibits, addenda, and any supplemental agreements agreed to in writing by the Parties.

2.63 “**Settlement Approval Hearings**” means the hearings before the Courts for the purpose of obtaining the Approval Orders.

2.64 “**Settlement Class**” means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada. The Settlement Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

- 2.65 “**Settlement Class Member**” means a member of the Settlement Class (collectively “**Settlement Class Members**”).
- 2.66 “**Settlement Class Members’ Release**” means the full and final release of the Released Parties, and waiver, bar order, and covenant not to sue the Released Parties, by the Releasing Parties as particularized in Section 11 of this Settlement Agreement.
- 2.67 “**Settlement Class Notices**” means the English and French versions of the Certification Notice and Approval Notice.
- 2.68 “**Settlement Class Representatives**” means with respect to the Ontario Action, Stacey Green, and with respect to the Québec Actions, Michael Gagnon.
- 2.69 “**Settlement Fund Amount**” means the amount of CA\$12,000,000.00 (twelve million Canadian dollars), which is the full and total amount to be paid by GM in this Settlement other than the Plaintiffs’ Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of this Settlement Agreement, and which shall not be paid by GM unless and until each of the terms and conditions for such payment set forth in this Settlement Agreement are met.
- 2.70 “**Settlement Website**” means the website, in English and French, administered by the Settlement Administrator to facilitate the Settlement.
- 2.71 “**Short-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “B”**.
- 2.72 “**Subclasses**” means each of the four subclasses as follows:
- 2.72.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and

2.72.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and

2.72.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and

2.72.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).

2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

2.73 “**Subject Vehicles**” means the GM motor vehicles subject to the Recalls as specifically defined by the VINs provided by GM to the Settlement Administrator. A general list of the make, model and model years of GM vehicles that may be subject to each Recall is attached to this Settlement Agreement as **Schedule “A”**. Since not all vehicles of a certain make, model or model year may have been subject to a Recall, only the VINs provided by GM to the Settlement Administrator for each make, model and model year GM vehicle are Subject Vehicles.

2.74 “**Unclaimed Balance**” means any funds that remain from the Net Settlement Amount after the distribution of settlement payments to Eligible Claimants and the expiry of at least one-hundred and eighty (180) days following the last payment to Eligible Claimants.

2.75 “**VIN**” means the vehicle identification number.

2.76 The term “their” includes “it” or “its” where applicable.

**3. CERTIFICATION FOR SETTLEMENT PURPOSES AND SETTLEMENT AGREEMENT APPROVAL**

3.1 Promptly after the execution of this Settlement Agreement, Co-Lead Counsel shall submit this Settlement Agreement to the Courts pursuant to motions for the Certification Orders. Simultaneously, Co-Lead Counsel shall bring a motion before the Superior Court of Québec seeking the Amendment Order, a motion before the Ontario Superior Court of Justice seeking the Discontinuance Order, and Actions Counsel shall seek the dismissal of the Related Actions with prejudice pursuant to motions brought before the relevant court for each Related Action.

3.2 The motions for the Certification Orders submitted to both Courts shall specify that Co-Lead Counsel seek a Certification Order that is conditional upon a complementary Certification Order being made by the other Court.

3.3 Any certification/authorization of the Actions shall be for the purpose of this Settlement only, and the Released Parties retain all rights to assert that certification/authorization of a class in the Actions and Related Actions for any other purpose is not appropriate.

3.4 This Settlement Agreement shall be null and void and of no force and effect unless the Required Orders are entered in a form agreed to by the Parties and the Effective Date occurs, unless otherwise agreed to in writing by the Parties.

**4. SETTLEMENT BENEFITS**

4.1 Subject to the termination rights as set out in Section 13, and other terms and conditions of this Settlement Agreement, and in consideration for the Settlement Class Members’ Release, after the Effective Date, GM agrees to provide to the Settlement Class Members the consideration of payment of the Settlement Fund Amount, as well as separate payment of the Plaintiffs’ Counsel Fee Amount. This Section 4 describes allocation of the Net Settlement Amount, which shall be paid to Eligible Claimants from out of the Settlement Fund Amount. Sections 5 and 6

address GM's payment of Administrative Expenses and the Settlement Fund Amount Balance, respectively. GM's separate payment of the Plaintiffs' Counsel Fee is addressed in Section 12 below.

4.2 The Net Settlement Amount shall be distributed to Eligible Claimants after the Final Recall Repair Date in the following manner to be computed by the Settlement Administrator:

4.2.1 Each Eligible Claim by members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.2.2 Each Eligible Claim by members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3 In order to determine the settlement payment amount for each Eligible Claim for each Subclass, the following calculation process shall be used:

4.3.1 First, the number of all Eligible Claims for all Subclasses shall be divided into the Net Settlement Amount to determine an initial "**Base Payment Amount**" for calculation purposes. Only an Eligible Claim of an Eligible Claimant with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be counted twice, once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass.

4.3.2 Second, an "**Adjusted Base Payment Amount**" shall be determined by multiplying the Base Payment Amount by a factor of two (2) for Eligible Claims in the Delta Ignition Switch Subclass, by a factor of one-and-a-half (1.5) for Eligible Claims in the Key Rotation Subclass, and by a factor of one (1) for Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3.3 Third, the Adjusted Base Payment Amount for each Subclass shall be multiplied by the number of Eligible Claims in that Subclass to determine the total value of the Eligible Claims for that Subclass.

4.3.4 Fourth, the total value of the Eligible Claims for each Subclass shall be totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage.

4.3.5 Fifth, each Subclass' percentage shall be applied to the Net Settlement Amount in order to determine a prorated value of Eligible Claims for each Subclass.

4.3.6 Sixth, each Subclass' prorated value of Eligible Claims shall be divided by the number of all Eligible Claims for that Subclass to determine the payment amount for each Subclass' Eligible Claim.

4.3.7 Thus, and put another way, the “**Final Base Payment Amount**”, that is, the one that forms the basis for payments to Settlement Class Members for each of their individual Eligible Claims, can be calculated as

$$[\text{Net Settlement Amount}] / [2 \times (\text{no. of Eligible Claims in Delta Ignition Switch Subclass}) + 1.5 \times (\text{no. of Eligible Claims in Key Rotation Subclass}) + 1 \times (\text{no. of Eligible Claims in Camaro Knee-Key Subclass}) + 1 \times (\text{no. of Eligible Claims in Electric Power Steering Subclass})]$$

Eligible Claimants in the Camaro Knee-Key Subclass and Electric Power Steering Subclass will receive that Final Base Payment Amount. Eligible Claimants in the Delta Ignition Switch Subclass will receive 2x the Final Base Payment Amount. Eligible Claimants in the Key Rotation Subclass will receive 1.5x the Final Base Payment Amount. Eligible Claimants with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive 3x the Final Base Payment Amount.

## 5. ADMINISTRATIVE EXPENSES

- 5.1 All Administrative Expenses, including Preliminary Administrative Expenses, shall be paid from out of the Settlement Fund Amount, and GM shall not pay any additional amount toward Administrative Expenses.
- 5.2 The Parties will enter into a “**Joint Retention Agreement**” with the Settlement Administrator that will specify the permissible Administrative Expenses that GM agrees to pay from the Settlement Fund Amount for Administrative Expenses that are expected to be incurred before the Effective Date, including, but not limited to, costs associated with vendors retained to assist with delivering the Certification Notice to the Settlement Class, the development and implementation of the Settlement Website and the implementation of the Settlement Phone Number (as defined in Section 9.7) (the “**Preliminary Administrative Expenses**”). The Joint Retention Agreement will include a maximum amount to be determined in GM’s sole discretion that GM shall pay for the Preliminary Administrative Expenses.
- 5.3 GM agrees to pay, before the Effective Date, the Preliminary Administrative Expenses into the escrow account to be opened by the Settlement Administrator, and any payment out of the escrow account shall only be to the Settlement Administrator to pay invoices for Preliminary Administrative Expenses and only with the express written consent of GM and Co-Lead Counsel.
- 5.4 Any payment out of the escrow account by the Settlement Administrator pertaining to invoices for Administrative Expenses incurred on or after the Effective Date shall be subject to the express written consent of Co-Lead Counsel and GM.
- 5.5 If this Settlement Agreement is terminated pursuant to Section 13, any amount that GM agreed to pay in Preliminary Administrative Expenses less any unearned or unspent amount of such Preliminary Administrative Expenses and accrued interest in the escrow account on such Preliminary Administrative Expenses, which shall be promptly refunded to GM by the Settlement Administrator from the escrow account, shall be the full and total amount that GM shall be obligated to pay in this Settlement.



- 5.6 In the event that this Settlement Agreement is not terminated, any amount that GM agrees to pay in Preliminary Administrative Expenses shall be deducted from the remainder of the Settlement Fund Amount that GM shall pay pursuant to Section 6.1.

**6. PAYMENT OF SETTLEMENT FUND AMOUNT BALANCE**

- 6.1 Subject to the termination rights as set forth in Section 13, GM shall pay the Settlement Fund Amount, less any amount GM has paid for Preliminary Administrative Expenses, into the escrow account to be opened and maintained by the Settlement Administrator within thirty (30) days of the Effective Date.
- 6.2 If this Settlement Agreement is not terminated pursuant to Section 13, the Settlement Fund Amount together with the Plaintiffs' Counsel Fee Amount comprise the full and total amount that GM shall be obligated to pay in consideration of this Settlement. GM shall not, under any circumstances, be responsible for, or liable for, payment of any amount in this Settlement greater than the combined amount of the Settlement Fund Amount plus the Plaintiffs' Counsel Fee Amount.
- 6.3 The Settlement Administrator shall not pay out all or part of the monies in the escrow account except in accordance with Sections 5.3, 5.4 and 7.15 of this Settlement Agreement, as well as in accordance with an order of the Court(s).
- 6.4 **Apportionment of Net Settlement Amount.**

6.4.1 As to the portions of the Net Settlement Amount attributable to and for the Ontario Action and the Québec Actions, Actions Counsel stipulates, and the Defendants accept, that, based on GM's best available data, which shall be determinative, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action, and that 19.76% of the Net Settlement Amount will be attributed to the settlement of the Québec Actions.

## 6.5 Interest and Taxes.

6.5.1 Subject to Section 6.5.3, all interest earned on the Settlement Fund Amount until the Settlement Administrator conducts the calculation of settlement payments as stipulated in Section 4.2 shall form part of the Net Settlement Amount to be allocated by the Settlement Administrator to Eligible Claimants pursuant to Section 4.2 above. All interest earned on the Settlement Fund Amount after that date shall form part of the Unclaimed Balance.

6.5.2 Subject to Section 6.5.3, all taxes payable on any interest that accrues on the Settlement Fund Amount shall be paid from the Settlement Fund Amount. The Settlement Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Fund in the escrow account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Fund Amount shall be paid from the Settlement Fund Amount in the escrow account. The Settlement Administrator is entitled to withhold from the Settlement Fund Amount prior to disbursement of the Net Settlement Amount to Eligible Claimants an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants with any remainder after payment of taxes to form part of the Unclaimed Balance.

6.5.3 GM shall have no responsibility to make any filings relating to the escrow account and will have no responsibility to pay tax on any income earned by the Settlement Fund Amount or pay any taxes on the monies in the escrow account, unless this Settlement Agreement is terminated or invalidated, in which case the interest earned on the Settlement Fund Amount in the escrow account or otherwise shall be paid to GM, which, in such case, shall be responsible for the payment of any taxes on such interest.

6.6 **Remainder Funds.** Should there be any Unclaimed Balance of the Net Settlement Amount, those funds shall be distributed from the escrow account by the Settlement Administrator in the following manner:

6.6.1 For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2, shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4.

6.6.2 Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4, shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

## 7. CLAIMS PROGRAM PROCESS AND ADMINISTRATION

7.1 The Claims Program shall commence with the acceptance of Claim Forms as soon as reasonably practicable after the Effective Date.

7.2 The Claim Form and Approval Notice shall be made available on the Settlement Website as soon as reasonably practicable following the Effective Date. The Settlement Administrator shall mail paper copies of the Claim Form and Approval Notice to Persons who request such copies.

7.3 Claimants may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by email, or physically by mail to the Settlement Administrator.

7.4 Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline in order for the Claimant to qualify as an Eligible Claimant. Claim Forms submitted electronically or postmarked after the Claims Deadline shall be

rejected by the Settlement Administrator as untimely, shall not be reviewed, and shall not qualify as an Eligible Claim.

7.5 It is a fundamental condition of this Settlement and the intention of the Parties that all Recall repairs must be completed on a Subject Vehicle by an authorized GM dealer on or before the Final Recall Repair Date for a Claim to become an Eligible Claim, unless the Claimant establishes that they no longer have possession, custody, or control of the Subject Vehicle and, therefore, have no ability themselves to have the Recall repairs performed.

7.6 To become an Eligible Claimant with an Eligible Claim, a Settlement Class Member must:

7.6.1 Submit to the Settlement Administrator a completed Claim Form on or before the Claims Deadline, and any additional documentation the Settlement Administrator may thereafter require, to establish that:

7.6.1.1 The Claimant owned or leased a Subject Vehicle on or before the Recall Announcement Date of the applicable Recall (no Person may submit more than one claim per individual Subject Vehicle);

7.6.1.2 The Claimant is not an Excluded Person; and

7.6.1.3 If GM's records supplied to the Settlement Administrator show that all repairs have not been completed for any Recalls relating to the Subject Vehicle, and the Claimant is the current owner or lessee of the Subject Vehicle:

- (a) then, on or before the Final Recall Repair Date, all repairs have been completed by an authorized GM dealer for any Recalls relating to the Subject Vehicle; or
- (b) the Subject Vehicle is no longer in the Claimant's possession, custody, or control.

GM has the option, in its sole discretion, to determine whether or not the documentation provided with respect to this Section 7.6.1.3 is sufficient, and GM may, in its sole discretion, delegate any such determination to the Settlement Administrator, in which case GM has the right to audit the Settlement Administrator's determinations before the Net Settlement Amount is distributed to Eligible Claimants. If GM does not exercise these options in regard to any particular Claim, the Settlement Administrator shall determine the sufficiency of such documentation for that Claim.

7.7 The Settlement Administrator shall review all Claims to ensure that the Claimants provide information that demonstrates:

7.7.1 that the VIN supplied by the Claimant for their Subject Vehicle is included on a list of VINs of Subject Vehicles supplied by GM to the Settlement Administrator, which list shall be determinative;

7.7.2 that the Claimant is not an Excluded Person;

7.7.3 that the Claimant is a current or former owner or lessee of a Subject Vehicle on or before the applicable Recall Announcement Date; and

7.7.4 if the data supplied to the Settlement Administrator by GM indicates that the Recall repairs have not been completed on the Subject Vehicle, that the Claimant no longer has possession, custody, or control of the Subject Vehicle, or, if they have possession, custody or control of a Subject Vehicle, that the Recall repair(s) have been performed on the Subject Vehicle on or before the Final Recall Repair Date.

7.8 The Settlement Administrator has the right to request verification of claim eligibility, including verification of the purchase, ownership, lease or resale of Subject Vehicles, and completion of the Recall repairs by an authorized GM dealer. If the Settlement Administrator determines that a Claimant has not sufficiently completed the Claim Form, or failed to submit all required or requested documentation, the Settlement Administrator shall send written notification to the

Claimant identifying the missing information (including by e-mail where the Claimant selects e-mail as their preferred method of communication) (“**Deficiency Notice**”).

- 7.9 The Settlement Administrator shall send a Claimant a Deficiency Notice if it determines that additional information is required to complete, verify, or substantiate the Claim. Such information includes but is not limited to:
- 7.9.1 if the Claimant did not complete all sections of the Claim Form;
  - 7.9.2 if the Claimant submitted insufficient vehicle information on the Claim Form;
  - 7.9.3 if documentation is required to substantiate and/or verify the information contained in the Claim Form; and/or
  - 7.9.4 if the Claim Form is not signed.
- 7.10 The Claimant shall have thirty (30) days from the postmark date or email sent date of the Deficiency Notice to submit the requested information or documentation. If the Claimant does not timely submit their response on or before said thirty (30) days, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.11 The Settlement Administrator shall utilize data supplied by GM to determine whether the Recall repair(s) were performed on the Subject Vehicle. If the GM data indicates that the Recall repair(s) have not yet been performed and the Claimant is the current owner or lessee of the Subject Vehicle, the Settlement Administrator shall send a “**Recall Repair Deficiency Notice**” to the Claimant identifying the incomplete Recall repair(s) that must be completed by an authorized GM dealer on or before the Final Recall Repair Date. The Settlement Administrator may require confirmation and documentary proof (e.g. a repair order on an authorized GM dealer's form) from the Claimant of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle, which must be on or before the Final Recall Repair Date, and the authorized GM dealer at which the outstanding

Recall repair(s) were performed, or the Settlement Administrator may rely on updated data supplied by GM to verify that the Recall repair(s) have been completed on or before the Final Recall Repair Date.

- 7.12 A Claimant who receives a Recall Repair Deficiency Notice must obtain the outstanding Recall repair(s) for the Subject Vehicle on or before the Final Recall Repair Date, and, if requested by the Settlement Administrator, must submit to the Settlement Administrator documentary proof (e.g. a repair order on an authorized GM dealer's form) of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle and the authorized GM dealership at which the outstanding Recall repair(s) were performed on the Subject Vehicle on or before thirty (30) days after the Final Recall Repair Date. If the Claimant does not timely respond to the Recall Repair Deficiency Notice on or before said thirty (30) days after the Final Recall Repair Date, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.13 The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Program. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim to prevent actual or possible fraud and abuse and shall report any such fraud or abuse to Co-Lead Counsel, GM and to law enforcement authorities.
- 7.14 If the Settlement Administrator's review establishes that a Claim clearly demonstrates eligibility for a payment and is an Eligible Claim, the Settlement Administrator shall approve the Claim and process it in accordance with Section 4.3, including determining to which Subclass(es) the Eligible Claimant belongs and the amount of the payment to the Eligible Claimant. With the exception of the options granted to GM in Section 7.6.1.3, the decisions of the Settlement Administrator with respect to the eligibility or ineligibility of any Claim and amount of payment shall be final and binding on a Claimant and all Parties with no right of appeal to any court.

- 7.15 As soon as practicable following the Final Recall Repair Date plus any required cure period for deficiencies, the Settlement Administrator shall report to Co-Lead Counsel and GM the particulars of the proposed distribution of settlement payments to Eligible Claimants. No distribution of settlement monies from the escrow account shall occur without the express written approval of both Co-Lead Counsel and GM. The Settlement Administrator shall distribute settlement payments to Eligible Claimants as soon as practicable following the express written approval of both Co-Lead Counsel and GM.
- 7.16 The Settlement Administrator shall pay an Eligible Claim via issuance of a cheque sent by regular mail to the mailing address provided by the Eligible Claimant or by direct deposit to the bank account provided by the Eligible Claimant. Cheques not cashed by an Eligible Claimant within one-hundred and eighty (180) days of issuance will become stale-dated, not eligible for redemption and form part of the Unclaimed Balance. There will be no obligation to reissue stale-dated cheques.
- 7.17 Upon the completion of the Claims Program, Claimants shall be able to view the Settlement Website or otherwise contact the Settlement Administrator for information about their Claim.
- 7.18 The Settlement Administrator shall prepare periodic reports on the progress and status of the Claims Program that shall be provided to GM and Co-Lead Counsel. Unless otherwise reasonably requested by GM or Co-Lead Counsel, the Settlement Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter until one-hundred and eighty (180) days after the issuance of payments to Eligible Claimants. These reports shall include information sufficient to allow GM and Co-Lead Counsel to assess the Claims Program's progress. The Parties may request that the Settlement Administrator include specific information within the reports to facilitate the assessment of the Claim Program's progress.
- 7.19 When the Claims Program is concluded, the Settlement Administrator is to provide a final report to the Courts, GM and Co-Lead Counsel, detailing the number of



Eligible Claimants that received benefits under the Settlement, the total value of those benefits in each Subclass and the individual payments to be made to each Eligible Claimant in each Subclass. After one-hundred and eighty (180) days have passed since the issuance of payments to Eligible Claimants, the Settlement Administrator is to promptly provide a report to GM and Co-Lead Counsel including an accounting of the Unclaimed Balance.

7.20 No materials submitted by any Claimant will be returned to such Claimant. The Settlement Administrator shall be permitted to dispose of any materials submitted by a Claimant after the conclusion of the Claims Program.

7.21 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating Claims and paying Eligible Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary, to the Settlement Administrator, GM, Co-Lead Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by GM to comply with obligations to regulators in Canada. The Settlement Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information.

## **8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT**

8.1 The Parties agree to collaborate and cooperate regarding the form and content of all proposed orders submitted to the Courts in the Actions and to the courts in the Related Actions. The form and content of all such proposed orders shall be approved by the Parties before they are submitted to a court.

8.2 Subject to the termination rights set out in Section 13, the Parties and their successors, assigns, and counsel agree to use best and good faith efforts to obtain prompt approval of this Settlement Agreement by the Courts without modification.

- 8.3 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “F”**, announcing this Settlement following the entry of the Certification Orders by both Courts.
- 8.4 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “G”**, providing a reminder to Settlement Class Members to file Claims following the entry of the Approval Orders by both Courts and before the Claims Deadline.
- 8.5 Aside from such joint or respective press releases, neither the Parties nor Actions Counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement, unless otherwise agreed to in writing by the Parties.
- 8.6 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.7 The Parties agree to cooperate and make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the Administration Expenses, are reasonable.
- 8.8 The Parties and their successors, assigns, and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for GM and Co-Lead Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Settlement Administrator.

8.9 In the event that the Parties are unable to reach an agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, GM and Co-Lead Counsel may seek the assistance of the Courts to resolve such matters.

## 9. NOTICE TO THE CLASS

9.1 **Notice Program.** The Notice Program utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Certification Orders. Following the entry of the Certification Orders, the Notice Program shall be effectuated in the manner directed and approved by the Courts. The Parties agree that the Notice Program and methods of notice therein described are valid and effective to provide practicable notice to the Settlement Class.

9.2 GM shall have no additional obligations to pay for any aspect of the Notice Program other than paying the Preliminary Administrative Expenses, and, if all conditions are met, the balance of the Settlement Fund Amount. The Parties shall have the right but not the obligation to monitor, inspect and audit the costs associated with the Notice Program.

9.3 **Settlement Class Information.** Based on customer contact information in GM's possession, to the extent such information was registered by customers with GM, GM will make reasonable efforts to compile a list of names, email addresses and mailing addresses of Settlement Class Members. This information shall be delivered to the Settlement Administrator prior to the date the Certification Notice is to be disseminated pursuant to the Notice Program.

9.4 If this Settlement Agreement is terminated or invalidated, all information provided by GM pursuant to Section 9.3 shall be destroyed forthwith, no record of the information so provided shall be retained by Actions Counsel or the Settlement Administrator in any form whatsoever.

9.5 The Parties will work co-operatively to leverage existing data which GM may have in its possession that can be used by the Settlement Administrator to find efficient ways to effect notice and assist Claimants in filling out Claim Forms, including, but not limited to (a) utilizing ownership and lessee data, including email, if available, to provide direct notice to Settlement Class Members; and (b) providing the data to the Settlement Administrator to “auto-populate” Claim Forms, to the extent possible in accordance with Canadian law and privacy obligations.

9.6 **Certification Notice.** Details regarding the Short-Form Certification Notice and a Long-Form Certification Notice are set forth below:

9.6.1 **Short-Form Certification Notice.** Short-Form Certification Notices in English and French shall be disseminated in accordance with the Notice Program. These Short-Form Certification Notices shall include details of where to access the Settlement Website on which English and French versions of the Long-Form Certification Notice shall be made available. The Short-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “B”**.

9.6.2 **Long-Form Certification Notice.** The Long-Form Certification Notice shall: (a) state that this Settlement Agreement is contingent upon entry of the Required Orders; (b) advise Settlement Class Members that they may elect to opt out of the Settlement Class by submitting a written statement providing the information required by Section 10.3 to the Settlement Administrator prior to the Opt Out Deadline; (c) advise Settlement Class Members that they may object to this Settlement Agreement by submitting a written statement of objection clearly specifying the grounds for the objection and providing the information required by Section 10.3 to the Settlement Administrator no later than the Objection Deadline; (d) advise that any Settlement Class Member may enter an appearance at the Settlement Approval Motion, including through counsel of their choice at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of their intention to opt out of the Settlement Class will be bound

by the Approval Orders in the Actions, including the Settlement Class Release included therein. The Long-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “C”**. The Long-Form Certification Notice shall be posted on the Settlement Website and shall be emailed or mailed to any Person requesting a copy from the Settlement Administrator.

9.7 **Settlement Phone Number.** The Settlement Administrator shall establish and manage a Canadian toll-free phone number as soon as reasonably practicable after the entry of the Certification Orders which Settlement Class Members can call to receive automated information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining the Long-Form Certification Notice of this Settlement Agreement described in Section 9.6.2 or any other materials described in Section 9.6; (c) the Objection Deadline and Opt-Out Deadline; (d) how to submit a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Motion (the “**Settlement Phone Number**”). The information accessible through the Settlement Phone Number shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

9.8 **Settlement Website.** The Settlement Website shall be functional and accessible as soon as practicable after the entry of the Certification Orders. The domain name of the Settlement Website must be approved by the Parties in writing. The Settlement Website will have additional functionality to facilitate the submission of Claims as soon as reasonably practicable following the Effective Date. The Settlement Website shall include, in PDF format, content agreed upon by the Parties and/or as required by the Court, and shall inform Settlement Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, the precise content of which shall be subject to written approval of the Parties, including, but not limited to, the following information once known and/or existing:

9.8.1 The Opt-Out Deadline, the Objection Deadline, the Claims Deadline, and the Final Recall Repair Date;

- 9.8.2 The procedure for opting out of, or objecting to, the Settlement;
- 9.8.3 The date of the Settlement Approval Hearing;
- 9.8.4 Contact information for the Settlement Administrator including the Settlement Phone Number and an email address through which Settlement Class Members may send questions to the Settlement Administrator;
- 9.8.5 Copies of this Settlement Agreement with signatures redacted, the Certification Notice, the Approval Notice, the Certification Orders and the Approval Orders;
- 9.8.6 Instructions on how to obtain benefits under this Settlement;
- 9.8.7 A searchable VIN interface (i.e. VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- 9.8.8 A mechanism by which Claimants can electronically submit Claim Forms to pursue a Claim;
- 9.8.9 A mechanism by which Settlement Class Members can sign up to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy;
- 9.8.10 Any orders issued in the Actions or Related Actions relevant to this Settlement; and
- 9.8.11 Any other information the Parties determine is relevant to the Settlement.

9.9 **Settlement Approval Notice.** The Settlement Administrator shall disseminate the Approval Notice in English and French in accordance with the Notice Program. The Settlement Approval Notice shall: (i) advise Settlement Class Members that this Settlement Agreement has been approved by the Courts in the Approval Orders; and (ii) include details of how to make a Claim and where to access the Settlement

Website. The Settlement Approval Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “D”**.

**10. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT**

10.1 The Settlement Administrator shall receive any (a) written elections to opt out of the Settlement Class and (b) objections to this Settlement.

10.2 To be valid, elections to opt out of the Settlement Class and objections to this Settlement must be received by the Settlement Administrator by mail, courier, or e-mail on or before the Opt-Out Deadline or Objection Deadline, as applicable.

10.3 All written elections to opt out of the Settlement Class and objections to this Settlement Agreement shall be personally signed by the purported Settlement Class Member and shall include the following:

10.3.1 The purported Settlement Class Member’s name, mailing address, telephone number, and e-mail address (if available);

10.3.2 Proof that the Person is a Settlement Class Member, including proof of the dates of ownership or lease of the Subject Vehicle and a statement that the Person is not an Excluded Person;

10.3.3 The make, model, model year, and VIN of the Person’s Subject Vehicle;

10.3.4 A statement that the purported Settlement Class Member elects to be excluded from the Settlement Class, or a brief statement of the nature of and reason for the objection to this Settlement, as applicable;

10.3.5 If objecting to this Settlement, whether the potential Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

10.4 Notwithstanding Section 10.3, if the purported Settlement Class Member is deceased, a minor, or otherwise incapable of making their own election to opt out or

their own written objection to this Settlement, the information required by Section 10.3 must be provided along with the contact information of the person acting on behalf of the purported Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the purported Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a purported Settlement Class Member, except in the circumstances set out in this Section.

- 10.5 Settlement Class Members who elect to opt out of the Settlement Class may re-elect in writing to become Settlement Class Members, if their re-election request is received by the Settlement Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be members of the National Settlement Class or the Québec Settlement Class, or by written agreement of GM and Co-Lead Counsel.
- 10.6 Any Settlement Class Member who elects to opt out of the Settlement Class may not also object to this Settlement Agreement, subject to Section 10.5. If a Settlement Class Member elects to opt out of the Settlement Class and also objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 10.7 All Settlement Class Members who do not opt out in a timely and proper manner will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Courts in the Approval Orders.
- 10.8 Any Settlement Class Member who objects to this Settlement shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved by the Courts in the Approval Orders, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of a Claim and other requirements herein.



- 10.9 The Settlement Administrator shall provide copies of all opt-out elections and objections categorized by Subject Vehicle to GM counsel and Co-Lead Counsel on a weekly basis after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes expense.
- 10.10 The Settlement Administrator shall, no later than seven (7) days before the Settlement Approval Hearing, provide to GM and Co-Lead Counsel and file with the Court an affidavit reporting on the number of opt-out elections and re-elections received on or before the Opt-Out Deadline, and compiling all of the written objections received on or before the Objection Deadline, and to the extent possible, detailing the number of opt-outs and written objections categorized by Subject Vehicle.
- 10.11 The Parties have agreed to a confidential number of Opt-Outs, and will provide this number to both Courts in a document to be kept under seal by both Courts pursuant to the Parties' joint request until the Settlement Approval Hearings. If the number of Opt-Outs is greater than the confidential number agreed to by the Parties, then GM shall have the unilateral right, but not the obligation, to terminate this Settlement Agreement. GM shall advise the Courts and Co-Lead Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Settlement Administrator referred to in Section 10.10. In such event, this Settlement Agreement shall be null, void, of no force or effect, and may not be offered or received into evidence or utilized for any other purpose in the Actions, Related Actions or in any other claim, action, suit or proceeding.

## **11. SETTLEMENT CLASS MEMBERS' RELEASE**

- 11.1 The Parties agree that the Settlement Class Members' Release as set forth in this Section 11 inclusive of 11.1 to 11.17, shall take effect upon the Effective Date.
- 11.2 It is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle

shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only.

- 11.3 In consideration of this Settlement Agreement inclusive of the valuable consideration from GM set forth herein at Sections 4, 5, 6, 11 and elsewhere, effective automatically as of the Effective Date, the Releasing Parties fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, arbitrations, mediations, liabilities, suits, petitions, rights, damages and causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any and all Released Parties, arising out of, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls (individually and collectively, the “**Released Claims**”). Released Claims include, without limitation, any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, derivative or direct, asserted or un-asserted, whether or not concealed or hidden, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls, including without limitation (a) any claims that were or could have been asserted in the Actions or Related Actions or were the subject matter of the Actions, the Related Actions, or the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, loss of use or enjoyment (due to alleged mental/emotional/psychological distress, anxiety, fear or otherwise), sale, lease and/or resale of the Subject Vehicles or alleged mental/emotional/psychological distress, anxiety, or fear not attributable to a motor vehicle accident involving a Subject Vehicle; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary damages, liens, injunctive relief, counsel, expert, consultant, or other litigation fees or costs (other than the

Settlement Fund Amount and Plaintiffs' Counsel Fee Amount to be awarded by the Courts in connection with this Settlement Agreement), and any other liabilities that were or could have been asserted in any civil, criminal, administrative, or other proceeding, including arbitration. Released Claims also include without limitation any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature on which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, tort, breach of contract, fraud, breach of statute, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the subject matter of the Actions, Related Actions, and/or Recalls.

- 11.4 Notwithstanding the foregoing, this Settlement Agreement does not release, and the definition of Released Claims does not include, any individual claims for wrongful death, personal injury (and related family/dependent claims) or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but does release, and the definition of Released Claims does include, class or representative claims for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. For the avoidance of doubt, a Settlement Class Member may pursue an individual claim or proceeding for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but a Settlement Class Member shall not threaten, commence, participate in (as a class member or otherwise), continue, or act as a class representative or in any representative capacity in, any class or representative claim, suit, action or proceeding involving such claims against any Released Party anywhere, and shall cause any such claim, suit, action or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.

- 11.5 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under this Settlement Agreement, and the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement. For the avoidance of doubt, Co-Lead Counsel and the Settlement Class Representatives expressly understand and acknowledge that they and/or other Releasing Parties may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions, the Related Actions, the Recalls and/or the Settlement Class Members' Release. Nevertheless, it is the intention of Co-Lead Counsel and the Settlement Class Representatives in executing or authorizing the execution of this Settlement Agreement and obtaining the Approval Orders that the Releasing Parties shall fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.
- 11.6 The Releasing Parties shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding, whether in Canada or elsewhere, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other Person, with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Members' Release. To the extent that the Releasing Parties have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, the Related Actions or the Recalls, whether in Canada or elsewhere, they shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.
- 11.7 If a Releasing Party commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal,

provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Releasing Party's cost, be brought to an end, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all related costs and expenses, including legal costs and disbursements, from that Releasing Party arising as a result of that Releasing Party's breach of their obligations under this Settlement Class Members' Release and the Settlement Agreement, provided that the Released Party provides written notice to the Releasing Party of their alleged breach and an opportunity to cure the breach.

- 11.8 For the avoidance of doubt, each Releasing Party is prohibited from instituting, continuing, maintaining or asserting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any suit, action, proceeding, cause of action, claim, or demand against any Released Party or any other Person who may claim contribution, indemnity or other claims of relief over from any Released Party, in respect of any matter related to the Released Claims, and any such claim shall be immediately brought to an end consistent with Section 14.1 and the Parties shall cooperate and request any court in which such claim is or has been commenced to order the immediate dismissal of same with prejudice. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.
- 11.9 Settlement Class Members expressly agree that this Settlement Class Members' Release, the Certification Orders and the Approval Orders are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Members' Release whether in Canada or elsewhere, without regard to whether any Settlement Class Member submits a Claim, has a Claim rejected by the Settlement Administrator, or receives any payment pursuant to this Settlement.

- 11.10 The Releasing Parties expressly waive, relinquish, release with prejudice, and covenant not to exercise, and shall be deemed to have waived, relinquished, released with prejudice, and covenanted not to exercise, any and all rights and/or claims that they may have under any law, statute, regulation, adjudication, quasi-adjudication, decision, administrative decision, common law principle, or any other theory or source, that would otherwise limit the effect of the Settlement Class Members' Release, including but not limited to any law that might limit a release to those claims or matters actually known or suspected to exist at the time of execution of the release.
- 11.11 The Settlement Class Members who are not Opt-Outs represent and warrant that they are the sole and exclusive owners and holders of any and all Released Claims released under this Settlement Agreement. The Settlement Class Members who are not Opt-Outs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, subrogated or encumbered, whether through insurance, indemnification, or otherwise, any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Actions, Related Actions, Recalls or their Released Claims, including without limitation, any claim for benefits, proceeds, or value under the Actions, the Related Actions or due to the Recalls, and that they are not aware of any insurers, indemnitors, subrogees, or anyone other than themselves claiming any interest, in whole or in part, in the Actions, Related Actions, Recalls or their Released Claims or in any benefits, proceeds, or values to which they may be entitled under the Actions, Related Actions, Recalls or as a result of their Released Claims.
- 11.12 Without in any way limiting its scope, and except with respect to the Plaintiffs' Counsel Fee Amount, the Settlement Class Members' Release includes, by example and without limitation, a release of Released Parties by the Releasing Parties from any and all claims for counsel's fees, costs, expert fees, consultant fees, interest, litigation fees, costs or any other fees, costs and/or disbursements incurred by any lawyers, Co-Lead Counsel, Actions Counsel, Settlement Class Representatives or

Settlement Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Settlement Class.

- 11.13 Any and all benefits paid by GM pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims of the Releasing Parties against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Members' Release. The Settlement Class Members' Release shall be irrevocably binding upon all Releasing Parties.
- 11.14 This Settlement Class Members' Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members who do not opt out, regardless of whether those Settlement Class Members submit a Claim, have their Claim rejected by the Settlement Administrator, or receive compensation under this Settlement Agreement.
- 11.15 Nothing in the Settlement Class Members' Release shall preclude any action to enforce the terms of this Settlement Agreement, or claims arising out of, based upon, relating to, concerning, or in connection with the interpretation or enforcement of the terms of this Settlement. Nothing in the Approval Orders shall bar any action by any of the Parties to enforce or effectuate the terms of this Settlement Agreement and the Approval Orders.
- 11.16 The Settlement Class Representatives and Co-Lead Counsel hereby agree and acknowledge that this Section 11 was separately bargained for and constitutes a key, material term of this Settlement Agreement, and shall be reflected in the Approval Orders.
- 11.17 A Settlement Class Member shall fully indemnify the Released Parties and hold the Released Parties harmless for any breach by the Settlement Class Member of this Settlement Agreement including, without limitation, full indemnification of the Released Parties for all legal costs and disbursements incurred by the Released Parties to enforce this Settlement Agreement.

**12. PLAINTIFFS' COUNSEL FEE AMOUNT**

- 12.1 Pursuant to motions brought before the Courts without any opposition from GM, Co-Lead Counsel shall seek the Plaintiffs' Counsel Fee Amount Orders. The monies awarded by the Courts through the Plaintiffs' Counsel Fee Amount Orders shall be the sole compensation paid by GM to all lawyers who represent any Person asserting economic loss claims pertaining to the Actions and the Related Actions. In no event and under no circumstances shall GM pay any amount in counsel fees and expenses greater than the Maximum Plaintiffs' Counsel Fee Amount.
- 12.2 Co-Lead Counsel agree and covenant that, regardless of any orders, judgments, decisions, awards, or any other basis, they shall not claim, seek, attempt to recover, accept, execute on, or collect on any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.
- 12.3 The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty (30) days after the Effective Date or the entry of both Plaintiffs' Counsel Fee Amount Orders. If the Required Orders do not become Final, the Effective Date is not achieved or both Plaintiffs' Counsel Fee Amount Orders are not entered, GM shall have no obligation to pay any of the Plaintiffs' Counsel Fee Amount.
- 12.4 The Plaintiffs' Counsel Fee Amount paid by GM to Co-Lead Counsel shall be allocated by Co-Lead Counsel among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Actions Counsel deem fit. The Settlement Agreement shall not be in any way affected by, nor shall any of the Released Parties have any liability for, any dispute that exists or later arises with respect to the distribution or allocation of the Plaintiffs' Counsel Fee Amount.
- 12.5 The proceedings related to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount are to be considered separately from the Courts' approval of the Settlement. The Plaintiffs' Counsel Fee Amount Orders are to be separate and distinct from the Approval Orders so that any appeal from the



Plaintiffs' Counsel Fee Amount Orders shall not constitute an appeal of the Approval Orders. Any order or proceedings relating to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount, or any appeal from the Plaintiffs' Counsel Fee Amount Orders, or reversal or modification thereof, shall not operate to terminate, cancel, or modify this Settlement Agreement, or affect or delay the entry of the Required Orders.

**13. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

- 13.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and, if necessary, approval by the Courts, provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class Members or approval by the Court if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.
- 13.2 GM shall have the right, in its sole discretion, to terminate this Settlement Agreement in the event any of the following conditions occur: (a) one or more of the Required Orders are not entered or do not become Final; (b) the Plaintiffs' Counsel Fee Amount Orders award a Plaintiffs' Counsel Fee Amount in excess of the Maximum Plaintiffs' Counsel Fee Amount; (c) any portion or provision of the Settlement Class Members' Release detailed in Section 11 is held in whole or in part to be invalid, illegal or unenforceable in any respect; (d) more than a confidential number of Settlement Class Members opt out of the Settlement as provided for in Section 10.11; and/or (e) the confidentiality provision stipulated in Section 15.13 of this Settlement Agreement is violated.
- 13.3 This Settlement Agreement shall terminate at the discretion of GM, or the Settlement Class Representatives, through Co-Lead Counsel, if: (a) a court, or any appellate court therefrom, rejects, nullifies, modifies, refuses to enforce, or denies

approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline); or (b) a court, or any appellate court therefrom, does not enter or completely affirm, or alters, nullifies, narrows, expands, or refuses to enforce, any portion of the Required Orders (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline). The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other Parties no later than twenty (20) business days after receiving notice of the event prompting the termination.

13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13, neither GM nor the Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

13.5 If this Settlement Agreement is terminated pursuant to this Section 13, then:

13.5.1 the Parties shall be returned to their positions *status quo ante* with respect to the Actions and Related Actions;

13.5.2 this Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of 5.5, 6.5.3, 7.21, 9.4, 11.16, 11.17, 15.1, 15.2, 15.10 and 15.13, and the definitions and any exhibits and schedules applicable thereto;

13.5.3 no motion or application to certify or authorize an Action or Related Action as a class action on the basis of the Settlement Agreement shall proceed;

13.5.4 any order certifying or authorizing an Action as a class action on the basis of the Settlement Agreement, and any other settlement-related orders or judgments entered in the Actions after the date of execution of this Settlement Agreement, shall be null and void and shall have no force or effect and the Parties shall cooperate with each other to carry out any necessary changes in court files to give effect to this provision;

13.5.5 all of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of GM, the Settlement Class Representatives, and any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

13.5.6 the Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defences, arguments, and motions as to all causes of action and claims that have been or might later be asserted in the Actions or Related Actions, including, without limitation, the argument that the Actions or Related Actions may not be litigated as class actions;

13.5.7 the Settlement Class Representatives, and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions or Related Actions including, without limitation, any argument concerning class certification/authorization, liability, or damages;

13.5.8 neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;

13.5.9 within ten (10) business days, Actions Counsel shall return, or cause to be returned, to GM any and all amounts paid in respect of the Plaintiffs' Counsel Fee Amount and the Settlement Administrator shall return, or cause to be returned, to GM any unearned or unspent portion of the Settlement Fund Amount or Preliminary Administrative Expenses; and

13.5.10 within ten (10) business days, Actions Counsel and the Settlement Administrator shall destroy all non-public information provided to them by GM in

connection with this Settlement and its negotiation and, to the extent Actions Counsel and/or the Settlement Administrator have disclosed any non-public information provided by GM in connection with this Settlement Agreement, Actions Counsel and/or the Settlement Administrator shall recover and destroy such information. Actions Counsel and the Settlement Administrator shall provide GM with a written certification of such destruction.

#### **14. TERMINATION OF ACTIONS AND JURISDICTION OF THE COURTS**

- 14.1 Co-Lead Counsel and GM agree to cooperate and take all steps as are necessary to give effect to this Settlement Agreement and to bring a final end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions, the Related Actions and in any other pending or future litigation in any way related to the Released Claims. The Parties agree that the conclusion of any litigation as set out in this Section 14 shall not alter, negate or otherwise have any impact or effect on the Settlement Class Members' Release.
- 14.2 The Courts shall retain exclusive jurisdiction over any Discontinuance Order, Amendment Order, Certification Orders, Approval Orders, and Plaintiffs' Counsel Fee Amount Orders issued in the Actions commenced in their respective jurisdictions. The Ontario Superior Court of Justice shall retain ongoing and exclusive jurisdiction to resolve any dispute that may arise in relation to the validity, performance, interpretation, enforcement, enforceability, or termination of this Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section 14, except that any dispute specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.
- 14.3 If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable

opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.

- 14.4 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

**15. OTHER GENERAL TERMS AND CONDITIONS**

- 15.1 This Settlement Agreement makes no factual findings or conclusions of law. It is agreed that, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or allegations contained in the Actions, the Related Actions or in any pleading or civil, criminal, regulatory or administrative proceeding filed against any Released Party. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense. GM has denied and continues to deny each and all of the claims and contentions alleged in the Actions and the Related Actions, and has denied and continues to deny that GM has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Actions or the Related Actions. GM believes that it has valid and complete defenses to the claims asserted in the Actions and the Related Actions, and denies that GM committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Actions or the Related Actions. GM further believes that no class could be certified/authorized or maintained for litigation or for trial. Nonetheless, GM has concluded that it is desirable that the Actions and the Related

Actions be fully and finally settled on the terms and conditions set forth in this Settlement Agreement.

- 15.2 It is agreed that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.
- 15.3 This Settlement Agreement shall be binding upon, and enure to the benefit of GM, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.
- 15.4 The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.
- 15.5 The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Co-Lead Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Members' Release, and the legal effect of this Settlement Agreement and the Settlement Class Members' Release.
- 15.6 Co-Lead Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement, to recommend the approval of this Settlement Agreement to the Courts, and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or

inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

- 15.7 Co-Lead Counsel represent that (a) Co-Lead Counsel are authorized by the plaintiffs in the Actions and the Related Actions to enter into this Settlement Agreement; and (b) Co-Lead Counsel are seeking to protect the interests of the Settlement Class.
- 15.8 Co-Lead Counsel further represent that the Settlement Class Representatives: (a) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (b) are willing, able, and ready to perform all of the duties and obligations of representatives of the Settlement Class; (c) have authorized Co-Lead Counsel to execute this Settlement Agreement on their behalf; and (d) shall remain and serve as representatives of the Settlement Class and Subclasses until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Settlement Class Representatives cannot represent the Settlement Class.
- 15.9 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior, subsequent or concurrent breach of this Settlement Agreement.
- 15.10 If the Effective Date does not occur, or the Settlement is terminated pursuant to Section 13, then this Settlement Agreement, and the certification of the Settlement Class (and Subclasses) provided for herein, shall be vacated and the Actions and Related Actions shall proceed as though the Settlement Class (and Subclasses) had never been certified, without prejudice to any Party's position on the issue of class certification/authorization or any other issue. The Parties shall cooperate with each other to carry out the necessary changes in court files to give effect to this provision.
- 15.11 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this

Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.

- 15.12 The Parties reserve the right to agree in writing to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 15.13 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties. Information provided by GM, Co-Lead Counsel, Actions Counsel, any individual Settlement Class Member, or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and confidential and proprietary business information, shall be kept strictly confidential, except as may be expressly required (i) by law, (ii) by applicable provincial rules of professional responsibility, (iii) order of a court of competent jurisdiction over disclosing party's objection and after at least twenty-one (21) days prior written notice to GM and its counsel and a reasonable opportunity to intervene, (iv) with the express written consent of GM, directly or through its counsel, or (v) as otherwise described in this Settlement Agreement. In no circumstances shall any confidential information be disclosed for any reason without GM's prior written authorization.
- 15.14 The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the motions for the Certification Orders are filed; provided, however, that this Section shall not prevent GM from disclosing such information, prior to that date, to provincial and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, or if required by law or regulation. Nor shall the Parties and their



counsel be prevented from disclosing such information to persons or entities (such as experts, courts, legal counsel, and/or administrators) to whom the Parties agree in writing disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.

- 15.15 The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.
- 15.16 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. If requested by the Québec Court, a translation firm selected by Co-Lead Counsel shall prepare a French translation of this Settlement Agreement after its execution. The Parties agree that such translation is for convenience only. The cost of such translation shall be paid from the Settlement Fund Amount as a Preliminary Administrative Expense or Administrative Expense. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.
- 15.17 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to GM, then to:

Cheryl Woodin or Michael Smith  
BENNETT JONES LLP  
3400 One First Canadian Place  
100 King Street West

Toronto, ON M5X 1A4  
 E-mail: woodinc@bennettjones.com  
 smithmc@bennettjones.com

If to the Settlement Class  
 Representatives or Settlement  
 Class, then to:

Won J. Kim  
 KIM SPENCER McPHEE BARRISTERS  
 P.C.  
 1203-1200 Bay Street  
 Toronto, ON M5R 2A5  
 E-mail: wjk@complexlaw.ca

AND

Joel P. Rochon or Ron Podolny  
 ROCHON GENOVA LLP  
 121 Richmond Street West, Suite 900  
 Toronto, ON M5H 2K1  
 E-mail: jrochon@rochongenova.com  
 rpodolny@rochongenova.com

- 15.18 The Settlement Class, Settlement Class Representatives and GM shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.
- 15.19 The division of this Settlement Agreement into Sections and the insertion of topic and Section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 15.20 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with legal counsel and the assistance of The Honourable Justice Thomas Cromwell as mediator.
- 15.21 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 15.22 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if

necessary, the aid of the Court(s) and/or, by agreement of GM and Co-Lead Counsel.

- 15.23 The Parties represent and warrant that the individuals executing this Settlement Agreement are authorized to enter into this Settlement Agreement on their behalf.
- 15.24 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 15.25 The Parties have executed this Settlement Agreement as of the date on the cover page.

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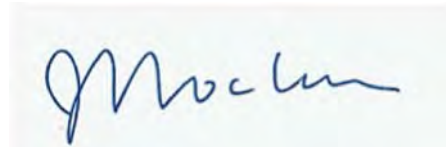
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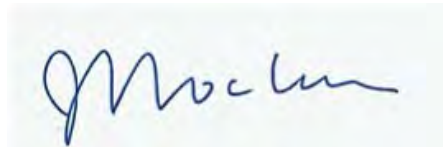


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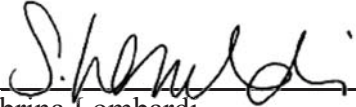
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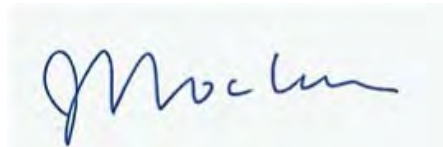
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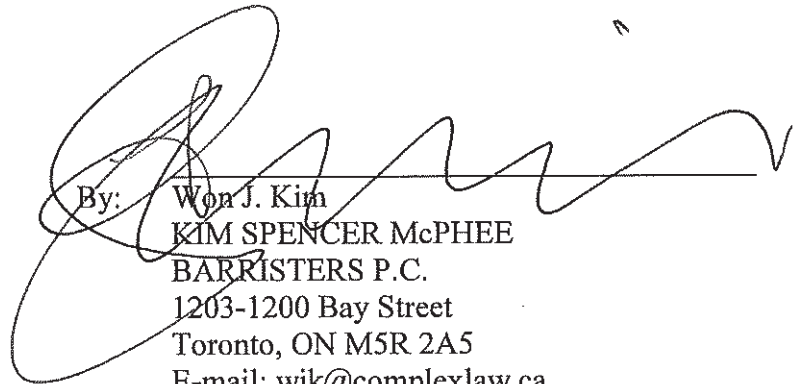
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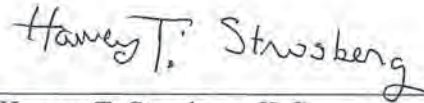
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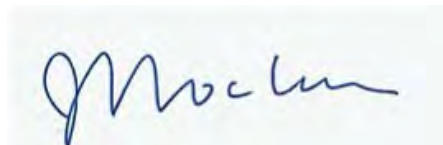
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## Schedule "A" – General List of Subject Vehicles\*

	<b>Make and Model</b>	<b>Years</b>
<b>Delta Ignition Switch Recall</b>  (Transport Canada Recall Numbers 2014-038, 2014-060, 2014-101)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2006-2011
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac Solstice	2006-2010
	Saturn Ion	2003-2007
	Saturn Sky	2007-2009
<b>Key Rotation Recall</b>  (Transport Canada Recall Numbers 2014-246, 2014-273, 2014-284)	Buick Allure	2005-2009
	Buick Lucerne	2006-2011
	Buick Regal	2004
	Cadillac CTS	2003-2014
	Cadillac Deville	2000-2005
	Cadillac DTS	2006-2011
	Cadillac SRX	2004-2006
	Chevrolet Impala	2000-2013
	Chevrolet Monte Carlo	2000-2007
	Chevrolet Malibu	1997-2005
	Oldsmobile Alero	1999-2004
	Oldsmobile Intrigue	1998-2002
	Pontiac Grand Am	1999-2005
	Pontiac Grand Prix	2004-2008
<b>Camaro Knee-Key Recall</b>  (Transport Canada Recall Number 2014-243)	Chevrolet Camaro	2010-2014
<b>Electric Power Steering Recall</b>  (Transport Canada Recall Number 2014-104)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2009-2010
	Chevrolet Malibu	2004-2006 and 2008-2009
	Chevrolet Malibu Maxx	2004-2006
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac G6	2005-2006 and 2008-2009
	Saturn Aura	2008-2009
	Saturn Ion	2004-2007

\*Of the above general list, only those vehicles with a Vehicle Identification Number that is included in the Recall(s) are included as Subject Vehicles.

CANADA

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup> : 500-06-000687-141

SUPERIOR COURT  
(Class Action)

---

MICHAEL GAGNON, residing and domiciled  
at [REDACTED]

*Petitioner*

-vs-

GENERAL MOTORS OF CANADA, a legal  
person, having its principal place of business  
at [REDACTED]

-and-

GENERAL MOTORS COMPANY, a legal  
person, having its principal place of business  
at [REDACTED]

*Respondents*

---

**MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE  
THE STATUS OF REPRESENTATIVE  
(Art. 1002 C.C.P. and following)**

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**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PETITIONER  
STATES THE FOLLOWING:**

**GENERAL PRESENTATION**

1. The Petitioner wishes to institute a class action on behalf of the following group, of which he is a member, namely:
  - All residents in Quebec who own, lease or otherwise possess one or more of the following GM vehicles:

- 2005-2007 Chevrolet Cobalt
- 2006-2007 Chevrolet HHR
- 2005-2006 Pontiac Pursuit
- 2005-2007 Pontiac G5
- 2006-2007 Pontiac Solstice
- 2003-2007 Saturn ION
- 2007 Saturn Sky

**("Class Vehicles")**

(hereinafter, referred to as "Class Member(s)", "Group Member(s)", the "Group", the "Class", the "Member(s)");

The Respondents

2. The Respondent, General Motors Company ("**GM**") is a corporation incorporated in the state of Delaware, USA. GM directs and controls the business actions of General Motors of Canada ("**GM Canada**");
3. The Respondent, General Motors of Canada Limited, wholly owned by GM, is a corporation incorporated under the laws of Canada and carries on business throughout Canada;
4. GM and GM Canada ("Respondents") shared the common purpose of designing, testing, manufacturing, marketing, sales, and distribution of the class vehicles in Canada;

5. The business and interests of the Respondents are inextricably interwoven, therefore, both Respondents are solidarily liable for the acts and omissions of the other;

General Facts:

6. At all material times, the Respondents tested, manufactured, marketed, sold, distributed the following vehicles:
  - 2005-2007 Chevrolet Cobalt
  - 2006-2007 Chevrolet HHR
  - 2005-2006 Pontiac Pursuit
  - 2005-2007 Pontiac G5
  - 2006-2007 Pontiac Solstice
  - 2003-2007 Saturn ION
  - 2007 Saturn Sky
7. The Class Vehicles experience unwanted engine-shutdown due to a defect in the ignition switch, which involuntarily disengages from the "on" position to the "off" position while driving, causing an electrical failure, as it appears more fully in an article from GM news titled "GM Expands Ignition Switch Recall" dated February 25<sup>th</sup>, 2014, hereby filed as **Exhibit P-1**;
8. The risk of an unwanted engine-shutdown increases if the key ring is carrying more than the car key;
9. When an unwanted engine-shutdown occurs, the vehicle may continue out of control

despite the driver's best efforts to regain control or immobilize the vehicle, thereby significantly increasing the likelihood of an accident;

10. An unwanted engine-shutdown results in the following:

- a) Sudden loss of electrical power;
- b) Sudden loss of power-steering;
- c) Sudden loss of electrical brake-assisting;
- d) Sudden loss of seat-belt restraining function; and/or,
- e) Renders air-bags useless and inoperative in the event of a collision;

11. Without power-steering, the vehicle's steering will still work, but it will be difficult for an individual to turn the steering wheel, let alone maintain full control of their vehicle;

12. Without electrical brake-assisting, the vehicle's brakes will still work but will require significantly increased effort to push down the brake pedal and the vehicle may not be able to stop as quickly or in as short a distance as expected;

13. Without air bags, the driver and passengers are subject to a higher risk of personal injury and death in the event of a collision;

14. The defect in the ignition renders the Class vehicles dangerous to operate, and subjects owners, passengers, and third parties, to an increased risk of personal injury and death;

15. According to a chronology of events that GM filed on February 24, 2014 with the U.S. National Highway Traffic Safety Administration, GM knew of the defective ignition switch problem as early as 2004, and was told of at least one fatal crash in March of 2007;

16. In an amended submission to the U.S. National Highway Traffic Safety Administration on March 12, 2014, GM said it had identified an issue with the ignition switch in 2001 pre-production testing on the Saturn ION, as it appears more fully in a copy of an article titled "UPDATE 3-GM waited on Ion recall despite awareness of fatal crashes" dated March 14<sup>th</sup>, 2014, hereby filed as **Exhibit P-2** ;
17. In 2006, the Respondents issued a Technical Service Bulletin, 2006 TSB (#05-02-35-007A: Information on Inadvertent Turning of Key Cylinder, Loss of Electrical System and No DTCs (Oct 25, 2006)), which dismisses the issue as a mechanical fault;
18. The Technical Service Bulletin listed the following vehicles as experiencing a possible inadvertent turning of the key cylinder and sudden loss of electric system and dynamic traction control:
- 2005-2007 Chevrolet Cobalt
  - 2006-2007 Chevrolet HHR
  - 2005-2006 Pontiac Pursuit
  - 2007 Pontiac G5
  - 2006-2007 Pontiac Solstice
  - 2003-2007 Saturn ION
  - 2007 Saturn Sky
19. The Respondents knew of the defective ignition switch problem as early as 2001, was told of at least one fatal crash in March of 2007, but failed to warn consumers and the regulatory authorities in the United States, Canada, and elsewhere, and only issued a recall in 2014;

20. On February 13, 2014, the Respondents recalled 780,000 vehicles due to the issues with the ignition problem, including:

- 2005-07 Chevrolet Cobalt
- 2005-07 Pontiac G5;

21. On February 25, 2014, the Respondents further recalled 588,000, including:

- 2003-07 Saturn ION
- 2006-07 Chevrolet HHR
- 2007 Pontiac Solstice
- 2006-07 Saturn Sky

22. In Canada, 235,855 vehicles of the aforementioned models and years have since been subject to recall;

23. The U.S. National Highway Safety Administration has linked the defects to 31 serious crashes and 13 front-seat deaths;

24. According to the Center for Auto Safety, referencing data compiled by U.S.-based Friedman Research Corporation, from 2003 until 2012, 303 people died in collisions after airbags failed to deploy in certain Chevrolet Cobalt and Saturn Ion models;

#### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER**

25. The Petitioner, Michael Gagnon, is a resident of Windsor, Quebec;

26. In 2005, the Petitioner purchased a new 2005 Saturn Ion;

27. Since purchasing the vehicle, the Petitioner experienced a sudden, unintended engine shut-downs on two occasions;

28. The Petitioner has experienced psychological and emotional distress knowing that his vehicle is unsafe;
29. The Petitioner therefore has suffered and continues to suffer damages due to the defect affecting his 2005 Saturn Ion;
30. Had the Petitioner known about this serious danger and/or defect, he would not have purchased his vehicle;
31. In addition, due to the defect in the ignition, the Petitioner's vehicle's resale value has diminished;
32. The damages suffered by the Petitioner are a direct and proximate result of the Respondents' conduct;
33. As a consequence of the foregoing, the Petitioner is justified in claiming damages;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

34. Every Member of the Group owns, leases or otherwise possesses one of the motor vehicles comprised in the Class Vehicles;
35. Each Member of the Group is justified in claiming at least one or more of the following:
  - a) Resiliation of the sale or lease of the Vehicle and reimbursement of the purchase price or lease amounts paid, including but not limited to taxes, license and registration fees, security deposit, down payment, etc., or subsidiarily, damages for the diminished value (or resale value) of the Class Vehicles;
  - b) Damages for the costs associated with the defects or repairs to the Class Vehicles;
  - c) Damages for any injury suffered and costs related to said injuries;



- d) Damages for loss of use and enjoyment of their Class Vehicles;
  - e) Damages for trouble, inconvenience and loss of time;
  - f) Damages for anxiety and fear;
  - g) Punitive and/or exemplary damages;
36. All of these damages to the Group Members are a direct and proximate result of the Respondents' conduct;

### **CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

**The composition of the group makes the application of Article 59 or 67 C.C.P. impractical or impossible for the reasons detailed below:**

37. The number of persons included in the Group is estimated to be in the thousands. According to the Recall Update, there are 235,855 vehicles in Canada as part of the recalls by the Respondents;
38. The names and addresses of all persons included in the Group are not known to the Petitioner but are known to the Respondents;
39. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Respondents. Even if the Group Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of the factual and legal issues raised by the conduct of Respondents would increase delay and expense to all parties and to the Court system;
40. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Member of the Class to obtain mandates and to join them in one action;

41. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Group to effectively pursue their respective rights and have access to justice;

**The questions of fact and law which are identical, similar, or related with respect to each of the Class Members:**

42. The recourses of the Group Members raise identical, similar or related questions of fact or law, namely:
- a) Is there a latent defect in the ignition of Class Vehicles?
  - b) Is there a safety defect in the Class Vehicles?
  - c) Are the Class Vehicles fit for the purpose they were intended?
  - d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
  - e) Did the Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased or leased the Class Vehicles, or thereafter?
  - f) Have the Group Members suffered damages as a result of the defect in question?
  - g) Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?
  - h) What are the categories of damages for which the Respondents are responsible to pay to Group Members, and in what amount?
  - i) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

43. The interests of justice favour that this motion be granted in accordance with its conclusions;

**NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

44. The action that the Petitioner wishes to institute for the benefit of the members of the Class is an action in damages for product liability;
45. The conclusions that the Petitioner wishes to introduce by way of a motion to institute proceedings are:

**GRANT** Plaintiff's action against Defendants;

**ORDER** the resiliation of the sale or lease of the Class Vehicles purchased or leased by the Class Members;

**ORDER and CONDEMN** Defendants to reimburse the purchase price or lease amounts paid by the Class Members, and any other amounts paid by Group Members in connection with the purchase or lease, plus interest as well the additional indemnity since the date of purchase or lease;

**OR SUBSIDIARILY, CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of resale value or diminished value of the Class Vehicle as a result of the existence and/or repair of the defect;

**CONDEMN** Defendants to reimburse to the Group Members any costs or fees paid in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**GRANT** the class action of Petitioner on behalf of all the Members of the Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

46. Petitioner suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a) Many Group Members are domiciled in the District of Montreal;
  - b) The Respondents have a business establishment in the District of Montreal;
  - c) Many of the Class Vehicles were purchased or leased by Class Members in District of the Montreal;
  - d) The Petitioner's counsel is domiciled in the District of Montreal;
47. The Petitioner, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group, since Petitioner:
- a) owns a 2005 Saturn Ion which is affected by the defect alleged above, and is thus a Member of the Group;

- b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Group;
- c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class attorneys in this regard;
- d) is ready and available to manage and direct the present action in the interest of the Group Members that the Petitioner wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class;
- e) does not have interests that are antagonistic to those of other members of the Group;
- f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
- g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Group and to keep them informed;

48. The present motion is well-founded in fact and in law;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present motion;

**AUTHORIZE** the bringing of a class action in the form of a motion to institute proceedings in damages;

**ASCRIBE** the Petitioner the status of representative of the persons included in the Group herein described as:

- All residents in Quebec who own, lease or otherwise possess one or more of the following GM vehicles:
  - 2005-2007 Chevrolet Cobalt
  - 2006-2007 Chevrolet HHR
  - 2005-2006 Pontiac Pursuit
  - 2005-2007 Pontiac G5
  - 2006-2007 Pontiac Solstice
  - 2003-2007 Saturn ION
  - 2006-2007 Saturn Sky;

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Is there a latent defect in the ignition of Class Vehicles?
- b) Is there a safety defect in the Class Vehicles?
- c) Are the Class Vehicles fit for the purpose they were intended?
- d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
- e) Did the Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased or leased the Class Vehicles, or thereafter?
- f) Have the Group Members suffered damages as a result of the defect in question?

- g) Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?
- h) What are the categories of damages for which the Respondents are responsible to pay to Group Members, and in what amount?
- i) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

**IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

**GRANT** Plaintiff's action against Defendants;

**ORDER** the resiliation of the sale or lease of the Class Vehicles purchased or leased by the Class Members;

**ORDER and CONDEMN** Defendants to reimburse the purchase price or lease amounts paid by the Class Members, and any other amounts paid by Group Members in connection with the purchase or lease, plus interest as well the additional indemnity since the date of purchase or lease;

**OR SUBSIDIARILY, CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of resale value or diminished value of the Class Vehicle as a result of the existence and/or repair of the defect;

**CONDEMN** Defendants to reimburse to the Group Members any costs or fees paid in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the

Group Members, to be determined by the Court;

**GRANT** the class action of Petitioner on behalf of all the Members of the Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

**DECLARE** that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

**ORDER** the publication of a notice to the Members of the Group in accordance with Article 1006 C.C.P.;

**THE WHOLE** with costs to follow.

**MONTREAL, March 19, 2014**

*MERCHANT LAW GROUP LLP*

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**MERCHANT LAW GROUP LLP**

Attorneys for the Petitioner



**NOTICE OF PRESENTATION**

TO: **GENERAL MOTORS OF CANADA**  
1908 Colonel Sam Drive,  
Oshawa, Ontario, L1H 8P7;

and

**GENERAL MOTORS COMPANY**  
300 Renaissance Center,  
Detroit, Michigan, United States of America  
48265;

**TAKE NOTICE** that the Petitioner has filed this MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE THE STATUS OF REPRESENTATIVE in the office of the Superior Court of the Judicial District of Montréal.

The Motion will be presented before one of the Honourable Judges of the Superior Court of Québec, District of Montréal, on **April 21, 2014 at 9:00 AM**, in room **2.16** of the Courthouse of Montréal situated at 1 Notre Dame East, Montréal, Québec. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the Court may hear the case.

**MONTREAL, March 19, 2014**

*MERCHANTS LAW GROUP LLP*

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**MERCHANT LAW GROUP LLP**  
Attorneys for the Petitioner

CANADA

SUPERIOR COURT  
(Class Action)PROVINCE OF QUEBEC  
DISTRICT OF MONTREALN<sup>o</sup> : 500-06-000 -

MICHAEL GAGNON

*Petitioner*

-VS-

GENERAL MOTORS OF CANADA

and

GENERAL MOTORS COMPANY

*Respondents*

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**LIST OF EXHIBITS**

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- EXHIBIT P-1:** GM expands ignition switch recall;
- EXHIBIT P-2:** Update 3-GM waited on Ion recall despite awareness of fatal crashes.

Montreal, March 19, 2014

Copie conforme / True Copy

(s) / (sgd.) Merchant Law Group, LLP  
Merchant Law Group, LLP

*Merchant Law Group LLP*  
**Merchant Law Group LLP**  
Attorneys for the Petitioner



## GM Expands Ignition Switch Recall

2014-02-25

- **Chevrolet HHR, Pontiac Solstice, and Saturn Ion and Sky included**
- **Company Launches Process Review**

**DETROIT** – General Motors is expanding the recall of certain 2003-2007 model year vehicles to correct a condition with the ignition switch that may allow the key to unintentionally move or switch to the “accessory” or “off” position, turning off the engine and most of the electrical components on the vehicle.

In addition to 2005-2007 Chevrolet Cobalts and Pontiac G5 and Pontiac Pursuit sold in Canada only, GM is separately recalling 2003-2007 Saturn Ions, 2006-2007 Chevrolet HHRs, and 2006-2007 Pontiac Solstice and 2007 Saturn Sky models. The affected U.S. vehicle population, including those vehicles recalled Feb. 13, totals 1,367,146.

This expanded vehicle population raises the number of reported incidents involving frontal crashes, in which the recall condition may have caused or contributed to the non-deployment of the frontal airbags, to 31 involving 13 front-seat fatalities.

As part of the recall, GM is taking steps to address customer concerns and working with its suppliers to increase parts production and accelerate availability.

GM will notify all affected customers that in addition to recalling their vehicles and performing repairs at no charge to them, GM and its dealers will work with customers on an individual, case-by-case basis to minimize inconvenience associated with the recall.

“Ensuring our customers’ safety is our first order of business,” said GM North America President Alan Batey. “We are deeply sorry and we are working to address this issue as quickly as we can.”

Going beyond required written notification, GM, through its customer care centers and social media teams, is using customer records and communications channels to notify affected customers of the recall and additional actions the company is willing to take to relieve their concerns and minimize inconvenience.

GM is recalling these vehicles because the ignition switch torque performance may not meet GM specifications. If the torque performance is not to specification, and the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the “run” position.

The timing of the key movement out of the “run” position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes.

Dealers will replace the ignition switch to prevent the unintentional or inadvertent key movement. Until this correction is performed, customers should use only the ignition key with nothing else on the key ring. As always, customers should drive responsibly and use their safety belts.

On Monday, the company submitted to the National Highway Traffic Safety Administration a detailed chronology associated with its initial recall of the ignition switch torque performance condition in Chevrolet Cobalts and Pontiac G5s and Pursuits. The chronology outlines events that happened during the time that elapsed between receiving the first field reports and issuing a recall.

"The chronology shows that the process employed to examine this phenomenon was not as robust as it should have been," said Batey. "Today's GM is committed to doing business differently and better. We will take an unflinching look at what happened and apply lessons learned here to improve going forward."

#### **About General Motors Co.**

**General Motors Co.** (NYSE:GM, TSX: GMM) and its partners produce vehicles in 30 countries, and the company has leadership positions in the world's largest and fastest-growing automotive markets. GM, its subsidiaries and joint venture entities sell vehicles under the Chevrolet, Cadillac, Baojun, Buick, GMC, Holden, Jiefang, Opel, Vauxhall and Wuling brands. More information on the company and its subsidiaries, including OnStar, a global leader in vehicle safety, security and information services, can be found at <http://www.gm.com>.

###



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**G E N E R A L M O T O R S**

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## UPDATE 3-GM waited on Ion recall despite awareness of fatal crashes

Wed, Mar 12 2014

- \* U.S. Senate announces its own probe of GM, NHTSA over recall
- \* Senate, House say criminal investigation could complicate their probes
- \* Faulty ignition switches linked to 12 deaths
- \* Hit to GM stock "overdone" -analyst

By Ben Klayman, Richard Cowan and Paul Lienert

DETROITWASHINGTON, March 12 (Reuters) - General Motors Co waited more than two weeks to expand a major recall to include the Saturn Ion and other compact cars, even though its engineers were aware of four fatalities in crashes involving the model, GM said in filings published on Wednesday.

In an amended submission to the U.S. National Highway Traffic Safety Administration, GM also said it had identified an issue with the ignition switch, the central failing in the recall of more than 1.6 million cars, in 2001 preproduction testing on the Ion.

That is three years earlier than the company previously had reported. Before Wednesday, GM had said that it became aware of the problem in 2004, in the Chevrolet Cobalt.

GM says the switch has been connected with at least 34 crashes and is linked to at least 12 deaths. Congress, regulators and GM itself are investigating why it took the company so long to recall the cars.

GM issued its first recall of more than 600,000 Chevrolet Cobalts on Feb 7 of this year. On Feb 25 it expanded the recall by nearly 750,000 vehicles to include the Ion and several other compact models that shared the faulty ignition switch that could cause the engine to shut down and disable the airbags, sometimes at high speed.

Asked why GM had waited before expanding the recall, a spokesman on Wednesday told Reuters the company had decided to conduct a "more in-depth analysis" of vehicles listed in previous communications with car dealers. That led to the second round of the recall.

A GM document released earlier on Wednesday said that even after the vehicles in its ignition-switch recall are repaired, owners should avoid weighing down their key rings with anything more than the key and fob.

Also on Wednesday, U.S. Senator Claire McCaskill said a Senate subcommittee plans to hold a hearing in early April on GM's recall.

"We have to get to the bottom of this," said McCaskill, a Missouri Democrat. "We need to find out who dropped ball and put millions of Americans at risk."

The failure is believed to be caused when weight on the ignition key, road conditions or some other jarring event causes the ignition switch to move out of the "run" position, turning off the engine and most of the car's electrical components mid-drive, with sometimes catastrophic results.

GM said in an earlier filing Wednesday that it will offer loaner cars in some cases to unhappy owners affected by the recall.

The company also said it is not buying back affected vehicles if owners ask for that, but is offering a \$500 cash allowance, through April 30, to buy a 2013, 2014 or 2015 model-year vehicle.

On Tuesday, a source said federal prosecutors have opened a probe of GM, examining whether the company is criminally liable for failing to properly disclose problems with some of its vehicles that led to the recall.

### PARALLEL PROBES

The New York office of the Federal Bureau of Investigation is involved in the probe, a source familiar with the matter told Reuters on Wednesday.

The federal probe by the FBI and the U.S. attorney in Manhattan adds to a growing list of U.S. authorities examining the recall.

McCaskill said the Senate Commerce Committee's consumer protection subcommittee will examine the responses of GM

and the federal traffic safety administration, NHTSA to the discovery of faulty ignition switches. She told Reuters that the congressional probe is "more challenging" now that the Justice Department also has opened its own investigation.

"While we would like to get as much information as possible and have General Motors as witnesses," McCaskill said her panel's review is "really about how NHTSA has handled this and what are the challenges that NHTSA faces in being an effective cop on the beat."

She said she has concerns about whether NHTSA had insufficient expertise and also about a lack of transparency at the agency. She did not know which GM executives would be called to testify.

Safety advocates have criticized NHTSA for failing to catch the GM issue and failing to demand a recall despite tracking the problems at different points over the past decade.

Kelley Blue Book senior analyst Karl Brauer said NHTSA's lack of action suggests the agency's own review process may be ineffective despite changes made after the high-profile Ford-Firestone tire recall in 2000.

However, NHTSA's chief said U.S. auto-safety regulators did not force GM to recall the cars sooner because the connection between defective ignition switches and failing airbags was not clear.

"If we had that information, if GM had provided us with timely information, we would have been able to take a different course with this," David Friedman, acting administrator for NHTSA, told Bloomberg on Wednesday in Washington.

Transportation Secretary Anthony Foxx told reporters in Washington on Wednesday that he had a "high level of confidence" in NHTSA, "but we'll continue watching as facts unfold and see where we are."

Foxx said his department is having a "dialogue" with the U.S. Department of Justice about the GM recall. "They're looking at the same information we're looking at. They will make that determination."

The U.S. House Energy and Commerce Committee also has ordered GM and NHTSA to turn over information about the automaker's ignition-switch problems. A House committee aide said on Wednesday that while the Justice probe may complicate what information can be received, the committee expects NHTSA and GM to comply with information requests.

GM has declined to comment on news of the criminal probe, but has said it is cooperating on all the various probes.

"We are fully cooperating with NHTSA and will do so with the Congress, too," GM spokesman Greg Martin said in an email on Wednesday. "We welcome the opportunity to help both parties have a full understanding of the facts."

GM faces a fine of up to \$35 million from NHTSA, and several analysts have estimated the recall could cost the company \$70 million to \$280 million.

The automaker has not disclosed what the recall will cost. Analysts agreed that the biggest costs could come from lawsuits likely to result from the recall and probe.

Barclays analyst Brian Johnson said in a research note that Tuesday's 5 percent stock decline was "overdone" as the \$3.2 billion hit to the company's market cap was likely well above any potential settlements with the U.S. Department of Justice, state attorneys general and plaintiffs' lawyers.

However, Johnson added that it was unclear what might make the stock rise in coming months as continued media headlines were likely to weigh heavily on GM shares.

GM shares fell 0.9 percent to close at \$34.86 on the New York Stock Exchange on Wednesday.

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CANADA

SUPERIOR COURT  
(Class Action)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup>:

500-06-000729-158

MICHAEL GAGNON, residing and domiciled at  
16 Dussereault, in the city of Windsor, Province  
of Quebec, J1S-2V8;

*Petitioner*

-vs-

GENERAL MOTORS OF CANADA, a legal  
person, having its principal place of business at  
1908 Colonel Sam Dr., Oshawa, Ontario, L1H  
8P7;

-and-

GENERAL MOTORS COMPANY, a legal  
person, having its principal place of business at  
300 Renaissance Center, Detroit, Michigan,  
United States of America, 48265;

*Respondents*

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**MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE  
THE STATUS OF REPRESENTATIVE  
(Art. 1002 C.C.P. and following)**

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TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PETITIONER  
STATES THE FOLLOWING:

**GENERAL PRESENTATION**

1. Petitioner wishes to institute a class action on behalf of the following group, of  
which he is a member, namely:

- All persons in Quebec (including but not limited to individuals, corporations,  
and estates) who, on March 31, 2014, owned one of the following vehicles:

- 2004-2006, 2008, 2009 Chevrolet Malibu
- 2004-2006 Chevrolet Malibu Maxx
- 2009-2010 Chevrolet HHR
- 2010 Chevrolet Cobalt
- 2008-2009 Saturn Aura
- 2004-2007 Saturn ION
- 2005, 2006, 2008, 2009 Pontiac G6

("Class Vehicles")

(hereinafter, referred to as "Class Member(s)", "Group Member(s)", the "Group", the "Class", the "Member(s)");

#### The Respondents

2. Respondent, General Motors Company ("GM") is a corporation incorporated in the state of Delaware, USA. GM directs and controls the business actions of General Motors of Canada ("GM Canada");
3. GM acquired all of the assets, staff, and knowledge of the predecessor General Motors Corporation, which went into bankruptcy in 2009;
4. Respondent, General Motors of Canada Limited, wholly owned by GM, is a corporation incorporated under the laws of Canada and carries on business throughout Canada;
5. GM and GM Canada ("Respondents") shared the common purpose of designing, testing, manufacturing, marketing, sales, and distribution of the class vehicles in Canada;



6. The business and interests of the Respondents are inextricably interwoven, therefore, both Respondents are solidarily liable for the acts and omissions of the other;

General Facts:

7. At all material times, Respondents tested, manufactured, marketed, sold, distributed the following vehicles:
- 2004-2006, 2008, 2009 Chevrolet Malibu
  - 2004-2006 Chevrolet Malibu Maxx
  - 2009-2010 Chevrolet HHR
  - 2010 Chevrolet Cobalt
  - 2008-2009 Saturn Aura
  - 2004-2007 Saturn ION
  - 2005, 2006, 2008, 2009 Pontiac G6
8. On March 31, 2014, Class vehicles were recalled because the electric power steering ("EPS") may experience a sudden loss of power steering assist, the whole as more fully appears in a copy of the recall from Transport Canada's Road Safety Recalls Database, communicated herewith as exhibit P-1;
9. Certain Class Vehicles may experience a sudden loss of electric-power steering assist due to a defect in the power steering motor, the steering column, the power steering motor control unit or a combination of the steering column and the power steering motor control unit, depending on the vehicle;
10. Without electric power steering assist, the vehicle's steering will still work, but it will be difficult for the driver to turn the steering wheel, let alone maintain full control of their vehicle. Driving without power steering can be dangerous because the vehicle may not be able to turn as quickly or as easily in order to perform an evasive manoeuvre and avoid a collision;

11. Petitioner and Group Members, having been accustomed to driving their vehicles with electric power steering assist, face significant danger when suddenly the electric power steering assist functions on their vehicles is changed;
12. The defective EPS renders the Class vehicles dangerous to operate, and subjects owners, passengers, and third parties, to an increased risk of personal injury and death;

#### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER**

13. Petitioner, Michael Gagnon, is a resident of Windsor, Quebec;
14. In 2005, Petitioner purchased a new 2005 Saturn Ion;
15. Petitioner's vehicle is one of the vehicles subjected to the safety recall due to a defect in the EPS, the whole as more fully appears in a copy of a recall letter from GM Canada, communicated herewith as exhibit P-2;
16. Petitioner has experienced psychological and emotional distress knowing that the vehicle is unsafe;
17. Petitioner therefore has suffered and continues to suffer damages due to the defect affecting his 2005 Saturn Ion;
18. Had Petitioner known about this serious danger and defect, he would not have purchased his vehicle;
19. In addition, due to the defect in the electric power-steering, Petitioner's vehicle's resale value has diminished;
20. The damages suffered by Petitioner are a direct and proximate result of the Respondents' conduct;
21. As a consequence of the foregoing, Petitioner is justified in claiming damages;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

22. Every Member of the Group owns or owned at the time of its recall one of the motor vehicles comprised in the Class Vehicles;
23. Each Member of the Group is justified in claiming damages for:
  - a) Decline in the value of the recalled vehicle;
  - b) The inconvenience associated with having to expend the time to have his/her vehicle repaired and be without their motor vehicles;
  - c) Mental distress associated with owning a vehicle subject to recall, with a dangerous defect in the EPS; and
  - d) Out of pocket expenses for, among other things, alternative transportation and prior repairs to the defective EPS;
  - e) Punitive and/or exemplary damages;
24. All of these damages to the Group Members are a direct and proximate result of the Respondents' conduct;

**CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

**The composition of the group makes the application of Article 59 or 67 C.C.P. impractical or impossible for the reasons detailed below:**

25. The number of persons included in the Group is estimated to be in the thousands. According to the recall issued on March 31, 2014, approximately 157,423 vehicles in Canada are part of the recall by the Respondents;
26. The names and addresses of all persons included in the Group are not known to Petitioner but are known to Respondents;

27. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Respondents. Even if the Group Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of the factual and legal issues raised by the conduct of Respondents would increase delay and expense to all parties and to the Court system;
28. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Member of the Class to obtain mandates and to join them in one action;
29. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Group to effectively pursue their respective rights and have access to justice;

**The questions of fact and law which are identical, similar, or related with respect to each of the Class Members:**

30. The recourses of the Group Members raise identical, similar or related questions of fact or law, namely:
  - a) Is the EPS of Class Vehicles defective?
  - b) Is there a safety defect in the Class Vehicles?
  - c) Are the Class Vehicles fit for the purpose they were intended?
  - d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
  - e) Did Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased the Class Vehicles, or thereafter?
  - f) Have the Group Members suffered damages as a result of the defect in question?

- g) Are Respondents liable to pay compensatory damages to Group Members stemming from the defect?
  - h) What are the categories of damages for which Respondents are responsible to pay to Group Members, and in what amount?
  - i) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?
31. The interests of justice favour that this motion be granted in accordance with its conclusions;

### **NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

32. The action that Petitioner wishes to institute for the benefit of the members of the Class is an action in damages for product liability;
33. The conclusions that Petitioner wishes to introduce by way of a motion to institute proceedings are:

**GRANT** Plaintiff's action against Defendants;

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of value of the Class Vehicle;

**CONDEMN** Defendants to reimburse to the Group Members any out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**GRANT** the class action of Petitioner on behalf of all the Members of the

Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

34. Petitioner suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:

- a) Many Group Members are domiciled in the District of Montreal;
- b) Respondents have a business establishment in the District of Montreal;
- c) Many of the Class Vehicles were purchased by Class Members in the District of the Montreal;
- d) Petitioner's counsel is domiciled in the District of Montreal;

35. Petitioner, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group, since Petitioner:

- a) owns a 2005 Saturn Ion which is affected by the defect alleged above, and is thus a Member of the Group;
- b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Group;

- c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class attorneys in this regard;
- d) is ready and available to manage and direct the present action in the interest of the Group Members that the Petitioner wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class;
- e) does not have interests that are antagonistic to those of other members of the Group;
- f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
- g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Group and to keep them informed;

36. The present motion is well-founded in fact and in law;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present motion;

**AUTHORIZE** the bringing of a class action in the form of a motion to institute proceedings in damages;

**ASCRIBE** the Petitioner the status of representative of the persons included in the Group herein described as:

- All persons in Quebec (including but not limited to individuals, corporations, and estates) who, on March 31, 2014, owned one of the following vehicles:
  - 2004-2006, 2008, 2009 Chevrolet Malibu

- 2004-2006 Chevrolet Malibu Maxx
- 2009-2010 Chevrolet HHR
- 2010 Chevrolet Cobalt
- 2008-2009 Saturn Aura
- 2004-2007 Saturn ION
- 2005, 2006, 2008, 2009 Pontiac G6

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Is the EPS assist system of Class Vehicles defective?
- b) Is there a safety defect in the Class Vehicles?
- c) Are the Class Vehicles fit for the purpose they were intended?
- d) Did the Respondents know or should the Respondents have known about these defects affecting the Class Vehicles?
- e) Did Respondents fail, refuse or neglect to adequately disclose the defect to consumers before they purchased the Class Vehicles, or thereafter?
- f) Have the Group Members suffered damages as a result of the defect in question?
- g) Are Respondents liable to pay compensatory damages to Group Members stemming from the defect?
- h) What are the categories of damages for which Respondents are responsible to pay to Group Members, and in what amount?



- i) Are Respondents liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

**IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

**GRANT** Plaintiff's action against Defendants;

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of value of the Class Vehicle;

**CONDEMN** Defendants to reimburse to the Group Members any out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Class Vehicles, trouble, inconvenience, loss of time, anxiety and fear, and other moral damages;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**GRANT** the class action of Petitioner on behalf of all the Members of the Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

**DECLARE** that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered

on the class action to be instituted;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

**ORDER** the publication of a notice to the Members of the Group in accordance with Article 1006 C.C.P.;

**THE WHOLE** with costs to follow.

**MONTREAL, January 23, 2015**

*Merchant Law Group LLP*

**MERCHANT LAW GROUP LLP**

Attorneys for the Petitioner

**NOTICE OF PRESENTATION**

TO: **GENERAL MOTORS OF CANADA**  
1908 Colonel Sam Drive,  
Oshawa, Ontario, L1H 8P7;

and

**GENERAL MOTORS COMPANY**  
300 Renaissance Center,  
Detroit, Michigan, United States of America  
48265;

**TAKE NOTICE** that the Petitioner has filed this MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE THE STATUS OF REPRESENTATIVE in the office of the Superior Court of the Judicial District of Montréal.

The Motion will be presented before one of the Honourable Judges of the Superior Court of Québec, District of Montréal, on **March 2, 2015 at 9:00 AM**, in room **2.16** of the Courthouse of Montréal situated at 1 Notre Dame East, Montréal, Québec. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the Court may hear the case.

**MONTREAL, January 23, 2015**

*Merchant Law Group LLP*

**MERCHANT LAW GROUP LLP**  
Attorneys for the Petitioner

CANADA

SUPERIOR COURT  
(Class Action)

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PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup>: 500-06-000 -

MICHAEL GAGNON

*Petitioner*

-vs-

GENERAL MOTORS OF CANADA

and

GENERAL MOTORS COMPANY

*Respondents*

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LIST OF EXHIBITS

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EXHIBIT P-1: Transport Canada Recall #2014104

EXHIBIT P-2: Recall letter from GMC

Montreal, January 23, 2015


  
Merchant Law Group LLP  
Attorneys for the Petitioner

## Transport Canada

Home > Road Safety > Vehicle Recalls and Defects > Road Safety Recalls Database > Search Result

### Road Safety Recalls Database

#### Transport Canada Recall # 2014104

<b>Recall Date</b>	2014/04/01
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Steering
<b>Manufacturer Recall Number</b>	14115
<b>Units Affected</b> 	157,423
<b>Category</b>	Car

#### Recall Details

Certain vehicles equipped with electric power steering may experience a sudden loss of power steering assist that could occur at any time while driving. If the power steering assist is lost, a message is displayed on the Driver Information Centre and a chime sounds to inform the driver. Steering control can be maintained, as the vehicle will revert to a manual steering mode, but will require greater driver effort. The sudden change in steering may increase the risk of a crash causing injury and/or property damage. Correction: Dealers will affect repairs as necessary. Note: This recall supersedes recalls 2010447 and 2012331. Vehicles having already been repaired under the previous campaigns do not require re-inspection.

Make	Model	Model Year(s) Affected
CHEVROLET	COBALT	2010
CHEVROLET	HHR	2009 2010
CHEVROLET	MALIBU	2004 2005 2006 2008 2009
CHEVROLET	MALIBU MAXX	2004 2005 2006
PONTIAC	G6	2005 2006 2008 2009
SATURN	AURA	2008 2009
SATURN	ION	2004 2005 2006 2007

Date Modified: 2013-07-11



GENERAL MOTORS OF CANADA LIMITED  
 1908 COLONEL SAM DRIVE  
 OSHAWA, ONTARIO L1H 8P7

December 2014

14115 1G8AG52F65Z172738 14 0013101

14115 1G8AG52F65Z172738 14 0013101  
 MICHAEL GAGNON  
 16 RUE DESSUREAULT  
 WINDSOR QC J1S 2V8

Dear Michael Gagnon:

This notice is sent to you in accordance with the requirements of the Canada Motor Vehicle Safety Act. *Previously, you were notified that your 2005 model year Saturn ION was involved in GM recall 2014115. This letter is to inform you that parts are now available to repair your vehicle.*

General Motors has decided that a defect which relates to motor vehicle safety exists in your 2005 model year Saturn ION vehicles equipped with electric power steering (EPS). As a result, GM is conducting a safety recall.

Your vehicle equipped with EPS may experience a sudden loss of power steering assist that could occur at any time while driving. If the power steering assist is lost, a message is displayed on the Driver Information Center and a chime sounds to inform the driver. Steering control can be maintained, as the vehicle will revert to a manual steering mode, but would require greater driver effort at low vehicle speeds, which could result in an increased risk of a crash. The power steering may return the next time the vehicle is started; however, you will still need to have your vehicle serviced.

Your General Motors dealer will replace the power steering motor. This service will be performed for you at **no charge**. You should contact your General Motors dealer as soon as possible to schedule an appointment for this repair.

You may be contacted by a dealer other than the dealer who sold or is currently servicing your vehicle. Please be advised that you may take your vehicle to the General Motors dealership of your choice to have the recall service work completed.

This letter identifies your vehicle. Presentation of this letter to your dealer will assist their Service personnel in completing the necessary correction to your vehicle in the shortest possible time.

If you have already paid for some or all of the cost to correct the condition in this recall, and you have not received reimbursement under a Vehicle Service Contract, you should contact your dealer to seek reimbursement. Please provide your dealer with the original or clear copy of all receipts, invoices and/or repair orders verifying the repair, the amount charged, proof of payment, the date of payment of those charges, and proof of ownership of the vehicle at the time of the repair. Your request for reimbursement, including the information and documents mentioned above, must be received by your dealer by **December 31, 2015**.

We apologize for this inconvenience. However, we are concerned about your safety and continued satisfaction with our products.

Customer Care and Aftersales  
 General Motors of Canada Limited / GM Recall #14115 /pd



10334

**SUPERIOR COURT OF QUÉBEC**  
(CLASS ACTION)

DISTRICT OF MONTRÉAL

**MICHAEL GAGNON**

*Petitioner*

- vs -

**GENERAL MOTORS OF CANADA**

And

**GENERAL MOTORS COMPANY**

*Respondents*

*1058  
Autos  
MC*

**MOTION TO AUTHORIZE THE BRINGING OF A  
CLASS ACTION AND TO ASCRIBE THE STATUS OF  
REPRESENTATIVE (Articles 1002 and following,  
1010.1, 1016 and 1023 C.c.p.)**

**ORIGINAL**

*Me Daniel Chung*

**MERCHANT LAW GROUP LLP**

10 Notre-Dame E., Suite 200  
Montréal, Québec H2Y 1B7  
Telephone: (514) 842-7776  
Telecopier: (514) 842-6687

**BC 3841**

**SUPERIOR COURT**

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No: 500-06-000687-141 / 500-06-000729-158

DATE: NOVEMBER 16, 2017

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**BY THE HONOURABLE MARK G. PEACOCK, J.S.C.**

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**MICHAEL GAGNON**  
Applicant

v.

**GENERAL MOTORS OF CANADA**

**-and-**

**GENERAL MOTORS COMPANY**  
Solidarily, the Respondents

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**JUDGMENT CONTINUING SUSPENSION OF APPLICATIONS FOR CLASS ACTION  
AUTHORIZATIONS**

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[1] In its October 15, 2017 minutes of a case management telephone conference, the Court raised the issue of the continuing stay of the power-steering aspect of the Quebec class action authorization proceedings. On October 13, 2016, in order to focus attention on and advance the companion Ontario proceedings relating to alleged ignition switch defects, *Baker v. General Motors et al* (Ontario Court action no. CV-14502023-00CP), Mr. Justice Paul Perell of the Ontario Superior Court had stayed the alleged power-



500-06-000687-141 / 500-06-000729-158

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steering defect proceedings in Ontario taken in *Académie Sainte-Cécile International School et al v. General Motors of Canada et al* (CV-14-20629-CP).

[2] This Court was provided with a letter dated September 22, 2017 from Mr. Joel P. Rochon of the Toronto law firm, Rochon Genova, who are designated class counsel in the *Baker* proceedings, which involve a national class.

[3] In its original judgment of March 8, 2016 suspending the present proceedings, the Court said at paragraph 29:

**[29] SUSPENDS the present proceedings in C.S.M.: 500-06-000687-141 and 500-06-00729-158, and REQUIRES counsel for the Parties to: (a) re-present themselves at a date to be fixed by the Court after four months from the present judgment and (i) to apprise the Court of the status of the Ontario actions and the American proceedings and thereafter at 4 month intervals; and (ii) whenever they need to advise the Court of any important development in the Ontario actions or American proceedings;**

[4] Periodic interim judgments of this Court will thereby keep potential Quebec class members informed of developments in this pan North American litigation. The present judgment follows this up. For the purposes of keeping this Court apprised, Plaintiff's counsel has provided additional information to the Court on both the Ontario and the U.S. proceedings through attorney Rochon.

[5] In compliance with *CCP* art. 19, this Court must ensure that suspending the two Quebec proceedings may have potential positive effects on those proceedings, either by way of: (a) resolving complex factual issues; (b) allowing stipulations to be filed which will save valuable court time; or (c) by providing for full or partial settlements, which may have application to the Quebec proceedings, including allowing Quebec class members to benefit as part of a national class in a "foreign" jurisdiction, such as Ontario and the United States in the present case.

[6] Applicant's counsel has provided a series of tables attached *en liasse* as Tables A-1 through A-5 which show whether the same make, model and year for the vehicles are involved in the various proceedings in Quebec, Ontario, and the United States.

[7] Those tables - as regards the Quebec ignition switch claim - show that the Pontiac Pursuit (2005-2006) is not part of the United States ignition switch claim but is part of the Ontario ignition switch claim. Conversely, the Chevrolet Impala (2000-2005) and (2014) that are found in the Quebec ignition switch proceedings are absent from the Ontario ignition switch claim but are part of in the United States ignition switch claim.

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[8] All of the vehicles in the Quebec power steering claim are found either in the Ontario power steering claim or the United States power steering claim.

[9] As noted, the Ontario power steering claim has been suspended while the Ontario ignition switch claim proceeds. The Court understands this was done in Ontario to determine if resolution of the ignition switch claim might not also resolve the power steering claim.

[10] The Court appends as Schedule A to this judgment Mr. Rochon's letter of September 22, 2017, with enclosures which updates the status of the United States proceedings, as well, and confirms that a motion to enforce a settlement agreement is presently before the American courts where this alleged agreement covers both ignition switch claims and "non-ignition switch" claims, including power steering claims.

[11] For clarity, the Court underscores that potential Quebec class members are not part of the US proceedings, but they are part of the Ontario proceedings, which involve a national class.

[12] As a result of a telephone conference with all counsel on November 6, 2017, it was agreed that Mr. Rochon will update this Court through short reports as contemplated by the original March 8, 2016 judgment of this Court. Such reports will be submitted through Applicant's counsel.

[13] All vehicles involved in the two Quebec applications are implicated in the cases in Ontario and the United States. There is appropriate forward progress in both jurisdictions to warrant the continued suspension of both Quebec applications.

#### **WHEREFORE, THE COURT:**

[14] **SUSPENDS** the present proceedings in C.S.M.: 500-06-000687-141 and 500-06-00729-158, and **REQUIRES** counsel for the Parties to: (a) re-present themselves at a date to be fixed by the Court after four months from the present judgment and (i) to apprise the Court of the status of the Ontario actions and the American proceedings and thereafter at 4 month intervals; and (ii) whenever they need to advise the Court of any important development in the Ontario actions or American proceedings; and

[15] **TAKES ACT** of the undertaking by the Plaintiff through the agency of Mr. Rochon to provide short status reports every 4 months (or sooner as required) on the following dates: Thursday, March 1, 2018; Monday, July 2, 2018; and Thursday, November 1, 2019 regarding the status of the Ontario and the U.S. proceedings;

[16] **ALL WITH LEGAL COSTS TO FOLLOW.**

500-06-000687-141 / 500-06-000729-158

PAGE: 4



MARK G. PEACOCK, J.S.C.

*Me. Erik Lowe*  
MERCHANT LAW GROUP  
Attorneys for the Petitioner

*Me. Robert E. Charbonneau*  
BORDEN LADNER GERVAIS  
Attorneys for the Respondents

Management Conference date: November 6, 2017

1 – Models Covered by *Gagnon* Power Steering and Ignition Switch Claims

CAR MODELS	GAGNON POWER STEERING CLAIM	GAGNON IGNITION SWITCH CLAIM
CHEVROLET COBALT (2005-2009)		✓
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2006-2009)		✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET HHR (2011)		✓
CHEVROLET IMPALA (2000-2014)		✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	
CHEVROLET MALIBU MAXX (2004- 2006)	✓	
PONTIAC G5 (2007-2010)		✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	
PONTIAC PURSUIT (2005-2006)		✓
PONTIAC SOLSTICE (2006-2010)		✓
SATURN AURA (2008-2009)	✓	
SATURN ION (2003)		✓
SATURN ION (2004-2007)	✓	✓
SATURN SKY (2007-2010)		✓

2 – Models Covered by *Gagnon* Power Steering Claim and Ontario Power Steering Claim

CAR MODELS	GAGNON POWER STEERING CLAIM	ONTARIO POWER STEERING CLAIM
CHEVROLET COBALT (2005-2009)		✓
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	✓
CHEVROLET MALIBU MAXX (2004- 2006)	✓	✓
PONTIAC G5 (2007-2010)		✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	✓
PONTIAC PURSUIT (2005-2006)		✓
SATURN AURA (2008-2009)	✓	✓
SATURN ION (2004-2007)	✓	✓

3 – Models Covered by the *Gagnon* Ignition Switch Claim and Ontario Ignition Switch Claim

CAR MODELS	GAGNON IGNITION SWITCH CLAIM	ONTARIO IGNITION SWITCH CLAIM
BUICK ALLURE (2005-2009)		✓
BUICK LACROSSE (2005-2009)		✓
BUICK LUCERNE (2006-2011)		✓
CADILLAC CTS (2003-2014)		✓
CADILLAC DEVILLE (2000-2005)		✓
CADILLAC DTS (2006-2011)		✓
CADILLAC SRX (2004-2006)		✓
CHEVROLET CAMARO (2010-2014)		✓
CHEVROLET COBALT (2005-2010)	✓	✓
CHEVROLET HHR (2006-2011)	✓	✓
CHEVROLET IMPALA (2000-2005)	✓	
CHEVROLET IMPALA (2006-2013)	✓	✓
CHEVROLET IMPALA (2014)	✓	
CHEVROLET MALIBU (1997-2005)		✓
CHEVROLET MONTE CARLO (2000-2005)		✓
CHEVROLET MONTE CARLO (2006-2007)		✓
OLDSMOBILE ALERO (1999-2004)		✓
OLDSMOBILE INTRIGUE (1998-2002)		✓
PONTIAC PURSUIT (2005-2006)	✓	✓
PONTIAC G5 (2007-2010)	✓	✓
PONTIAC GRAND AM (1999-2005)		✓
PONTIAC GRAND PRIX (2004-2008)		✓
SATURN ION (2003-2007)	✓	✓
SATURN SKY (2006)		✓
SATURN SKY (2007-2010)	✓	✓

4 – Models Covered by the *Gagnon* Power Steering Claim and U.S. Power Steering Claim

CAR MODELS	GAGNON POWER STEERING CLAIM	U.S. POWER STEERING CLAIM
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	✓
CHEVROLET MALIBU MAXX (2004- 2006)	✓	✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	✓
SATURN AURA (2008-2009)	✓	✓
SATURN ION (2004-2007)	✓	✓



5 – Models Covered by the *Gagnon* Ignition Switch Claim and the U.S. Ignition Switch Claim

CAR MODELS	GAGNON IGNITION SWITCH CLAIM	U.S. IGNITION SWITCH CLAIM
BUICK LACROSSE (2005-2009)		✓
BUICK LUCERNE (2006-2011)		✓
CADILLAC CTS (2003-2014)		✓
CADILLAC SRX (2004-2006)		✓
CADILLAC DEVILLE (2000-2005)		✓
CADILLAC DTS (2006-2011)		✓
CHEVROLET CAMARO (2010-2014)		✓
CHEVROLET COBALT (2005-2010)	✓	✓
CHEVROLET HHR (2006-2011)	✓	✓
CHEVROLET IMPALA (2000-2014)	✓	✓
CHEVROLET MALIBU (1997-2005)		✓
CHEVROLET MONTE CARLO (2000-2008)		✓
OLDSMOBILE ALERO (1999-2004)		✓
OLDSMOBILE INTRIGUE (1998-2002)		✓
PONTIAC G5 (2007-2010)	✓	✓
PONTIAC GRAND AM (2000-2005)		✓
PONTIAC GRAND PRIX (2004-2008)		✓
PONTIAC PURSUIT (2005-2006)	✓	
PONTIAC SOLSTICE (2006-2010)	✓	✓
SATURN ION (2003-2007)	✓	✓
SATURN SKY (2007-2010)	✓	✓



ROCHON | GENOVA<sup>LLP</sup>  
BARRISTERS • AVOCATS

of Counsel

FRANK G. FELKAI, Q.C. (1942-2016)  
ALLAN C. HUTCHINSON

in association with

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
SAN FRANCISCO | NEW YORK | NASHVILLE

September 22, 2017

VIA EMAIL

The Honourable Mr. Justice Peacock  
Superior Court of Québec  
1, rue Notre-Dame Est  
Montréal, Québec  
H2Y 1B6

Dear Justice Peacock:

**Re: *Baker et al. v. General Motors LLC et al.* Court File No. CV-14-502023-00CP**

We are writing in response to Your Honour's letter of September 12, 2017 to address your concerns in relation to maintaining a stay of the *Gagnon* power steering action. Before providing our rationale for our position, I would like to express my sincerest apologies for the inadvertent inclusion of a U.S. criminal decision as an appendix to the letter. That decision has no application to the matter before Your Honour.

We believe that maintaining the stay of the power steering action in Quebec is consistent with the streamlined approach to the prosecution of the claims. First, it must be borne in mind that the procedural rights of the class members in the power steering actions have been protected through the issuance of claims in Ontario and Quebec. The stay of the power steering action in Quebec is therefore a temporary measure that does not affect the substantive rights of the class members. Rather, it aims to ensure consistency in the litigation of the related claims across Canada, in a context where Quebec and Ontario counsel are working collaboratively.

Second, in our view, maintaining the stay of the Quebec power steering action promotes the most efficient and expeditious resolution of both the ignition switch and the power steering actions in Canada. In this respect, we will be proceeding with a motion summary judgment in the *Baker* ignition switch action, which will rely in part on admissions made by GM executives in the United States. In preparation for this motion, we will be delivering a substantial Request to Admit based on admissions made by the CEO of GM at various U.S. hearings. It is our view that this focused approach will expedite the resolution of the overarching issues of GM's liability and Old GM's bankruptcy which affect both actions.

Further, given the partial overlap between the subject vehicles in the two actions, we believe that the continuation of the stay of the power steering action in Quebec and Ontario would ensure efficiency and serves to avoid unnecessary expenditure of time and resources. Assuming that the plaintiffs are successful on their summary judgment motion, the stay of the power steering

actions could be lifted in both Ontario and Quebec to enable the power steering claims to proceed in tandem with the ignition switch actions.

This approach is consistent with the approach adopted in the U.S. in the context of the *U.S. M.D.L.* and Bankruptcy Proceedings. Shortly following delivery of our letter of September 6, 2017, the plaintiffs in the U.S. proceedings filed a motion to enforce a settlement agreement reached with the Motors Liquidation Company GUC Trust for economic loss claims. While the United States Bankruptcy Court (Southern District of New York) has yet to render a decision on this motion, it is clear from the plaintiffs' submissions, filed on September 11, 2017 (highlighted excerpts enclosed as Appendix A), that the proposed settlement involves both the ignition switch and the non-ignition switch claims, including power steering claims. Therefore, while the ignition switch and non-ignition switch cases initially proceeded separately in the U.S., it would appear that the economic loss claims relating to both actions were potentially resolved in the bankruptcy context at the same time.<sup>1</sup>

Given that this recent document most accurately reflects the status of the U.S. MDL, we will not burden Your Honour with a discussion of the relevance of the more dated documents. However, we would be pleased to provide those highlighted excerpts along with an explanation of their earlier relevance if you believe that such information would be of assistance.

We would be pleased to discuss this further on a short call at Your Honour's convenience.

Respectfully,



Joel P. Rochon

cc. Evatt Merchant, Erik Lowe, Roch Dupont (*Merchant Law Group LLP*)  
Cheryl Woodin, Robert Charbonneau (*Borden Ladner Gervais LLP*)  
Robert Bell (*Lerners LLP*)

Enc.

---

<sup>1</sup> Your Honour requested that we explain the significance of the U.S. documents enclosed our letter of September 6, 30

**APPENDIX A**

**OBJECTION DEADLINE: TO BE DETERMINED  
HEARING DATE AND TIME: TO BE DETERMINED**

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

-----X	:	
	:	
In re:	:	Chapter 11
MOTORS LIQUIDATION COMPANY, et al.,	:	Case No.: 09-50026 (MG)
f/k/a General Motors Corp., et al.,	:	
	:	
Debtors.	:	(Jointly Administered)
-----X	:	

**MOTION TO ENFORCE THE SETTLEMENT AGREEMENT  
BY AND AMONG THE SIGNATORY PLAINTIFFS AND THE GUC TRUST**

The Ignition Switch Plaintiffs,<sup>1</sup> certain Non-Ignition Switch Plaintiffs,<sup>2</sup> and certain Pre-Closing Accident Plaintiffs<sup>3</sup> (collectively, the "Signatory Plaintiffs") hereby submit this *Motion to Enforce the Settlement Agreement By and Among the Signatory Plaintiffs and the GUC Trust* (the "Motion").<sup>4</sup> In support of the Motion, the Signatory Plaintiffs rely on the *Declaration of Edward S. Weisfelner in Support of the Motion to Enforce the Settlement Agreement By and Among the Signatory Plaintiffs and the GUC Trust* filed contemporaneously herewith (the "Decl."). In further support of this Motion, the Signatory Plaintiffs respectfully state as follows:

### INTRODUCTION

1. The Signatory Plaintiffs and the GUC Trust<sup>5</sup> dedicated significant time, care and resources negotiating, drafting, and ultimately finalizing a settlement agreement (the "Settlement") between them.
2. The Settlement is a fair and efficient resolution of complex and protracted litigation that has engendered years of uncertainty and risk for a number of stakeholders, and illustrates exactly why there is a strong judicial policy in favor of settlements.
3. Notwithstanding the beneficial and final nature of the Settlement, after a brief, clandestine meeting with New GM, the GUC Trust sought to revoke the Settlement mere hours

<sup>1</sup> The term "Ignition Switch Plaintiffs" shall mean those plaintiffs asserting economic loss claims or persons suffering economic losses who, as of July 10, 2009, owned or leased a vehicle with an ignition switch defect included in Recall No. 14V-047 the "Ignition Switch Defect").

<sup>2</sup> The term "Non-Ignition Switch Plaintiffs" shall mean those plaintiffs asserting economic loss claims or persons suffering economic losses who, as of July 10, 2009, owned or leased a vehicle with defects in ignition switches, side airbags or power steering included in Recall Nos. 14V-355, 14V-394, 14V-400, 14V-346 and 14V-540, 14V-118 and 14V-153.

<sup>3</sup> The term "Pre-Closing Accident Plaintiffs" shall mean those plaintiffs asserting personal injury or wrongful death claims or persons who suffered a personal injury or wrongful death arising from an accident involving an Old GM vehicle that occurred prior to the closing of the Section 363 Sale. Collectively, the Ignition Switch Plaintiffs, Non-Ignition Switch Plaintiffs and Pre-Closing Accident Plaintiffs are the "Plaintiffs."

<sup>4</sup> Except where otherwise indicated, references to "ECF No. \_" are to docket entries in the Bankruptcy Court proceedings: *In re Motors Liquidation Co.*, Bankr. Case No. 09-50026 (MG).

<sup>5</sup> The term "GUC Trust" refers to the Motors Liquidation Company GUC Trust.



16. With the full knowledge and consent of the GUC Trust, on August 9, 2017, bankruptcy counsel for the Ignition Switch Plaintiffs and Non-Ignition Switch Plaintiffs and counsel for the holders of approximately 65% of the GUC Trust Units outstanding (the "Participating Unitholders") called New GM's counsel to inform New GM of the plan to present the Settlement to this Court and that they were seeking a Claims Estimate Order, and determine New GM's availability for such a conference. *See* Decl. ¶ 7. By August 14, 2017, the parties had secured a conference with this Court for August 17, 2017. *See id.*

17. In response to the MDL Court's request for a report on settlement activity as a regular item on the Status Conference agenda, on August 11, 2017, Steve Berman, counsel for certain Signatory Plaintiffs, informed Judge Furman during a status conference in the MDL that "we plan on presenting papers in the bankruptcy court next week, perhaps as early as Tuesday, that would ask the bankruptcy court to issue a claims estimation order pursuant to the sale agreement." Decl. Ex. C at 37:13-17. He further stated, "we're going to ask the bankruptcy court to issue that order which would require GM to put up stock that's worth roughly a little over \$1,000,000,000," and "I wanted to give the court a heads-up that there will be some new facts on the table next week." *Id.* at 37:25-39:1.

18. On August 11, 2017, Mr. Berman's statements, and New GM's response to those statements, were widely reported in the news media as evidence that the Signatory Plaintiffs had reached a settlement with the GUC Trust. Bloomberg, for example, reported that:

The settlement between the plaintiffs and the trust for Old GM is due to be signed Aug. 15, attorney Steve Berman said in a phone call. The deal will resolve hundreds of personal-injury cases stemming from GM's faulty ignition switches, as well as a class-action suit over millions of vehicles that allegedly lost value due to a series of recalls in 2014, he said.<sup>11</sup>

<sup>11</sup> Erik Larson, GM Accuses Bankruptcy Trust of Secret \$1 Billion Stock Plot, BLOOMBERG, <https://www.bloomberg.com/news/articles/2017-08-11/old-gm-settlement-plan-sets-up-court-fight-with-successor> (Aug. 11, 2017) (last viewed on Sept. 1, 2017); *see also* Brenda Pierson, GM Blasts \$1 Billion Deal Between

GM estate. Although the Signatory Plaintiffs have not yet had the opportunity, and do not have the information, to analyze any New GM proposal to the GUC Trust, it appears doubtful that this proposal is permissible, to say nothing of whether it can even be described as a real compromise of a dispute or settlement within the ambit of Bankruptcy Rule 9019, even if cloaked as a “forbearance” agreement. Rather than alleviating uncertainty, New GM is incentivizing—in fact *ensuring*—its continuation, as well as additional litigation, such as potential claims of tortious interference against New GM.

**RELIEF REQUESTED**

32. By this Motion, the Parties respectfully request that this Court enter an order, substantially in the form attached hereto as Exhibit A, enforcing the Settlement Agreement.

**ARGUMENT**

33. The Signatory Plaintiffs seek an order from the Court enforcing the Settlement under the Court’s inherent authority to enforce a settlement in a case pending before it. *See Meetings & Expositions, Inc. v. Tandy Corp.*, 490 F.2d 714, 717 (2d Cir. 1974); *Shabtai v. Honeywell, Inc.*, No. 94 Civ. 0524 (KMW) (RLE), 1998 WL 823617, at \*1 (S.D.N.Y. Nov. 25, 1998). The Court should exercise this authority to enforce the Settlement and order the GUC Trust to comply with its terms. As set forth in further detail below, all of the factors that courts consider to determine whether a settlement is enforceable under New York law weigh in favor of enforceability and there is no basis to invalidate the Settlement.

**I. The Settlement Is Enforceable.**

34. The enforceability of the Settlement is governed by New York law. *See* Decl. Ex. H § 3.16 (providing for application of New York law).<sup>17</sup> The intent of the parties determines

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<sup>17</sup> A small line of cases applies federal common law to the question of settlement enforceability under some circumstances involving federal claims, typically in federal law civil rights cases. Those are inapposite and, in any

where the terms of the settlement were set forth and subsequent letters acknowledged the settlement); *Wronka v. GEM Cmty. Mgmt.*, 854 N.Y.S.2d 474, 477 (N.Y. App. Div. 2008) (exchange of correspondence between counsel was sufficient to “constitute [an] enforceable stipulation”).

41. Overall, “[t]he *only* essential prerequisite for a valid settlement agreement is that the parties assent to the terms and conditions of the settlement, and . . . intend to be bound by it.” *Delyanis*, 465 F. Supp. 2d at 174. Nonetheless, the other factors elucidated by the *Winston* court provide additional support for enforcing the Settlement.

**B. The Parties Reached Agreement On All Material Terms And Conditions.**

42. There is no colorable dispute that the Signatory Plaintiffs and the GUC Trust agreed to all material terms and conditions, and, in fact, even all non-material dotting of i’s and crossing of t’s. The Settlement was done. Thus, this *Winston* factor weighs heavily in favor of enforcing the Agreement. See *The Guardian Life Ins. Co. of Am. v. Calkins*, No. 12 Civ. 8863 (JGK), 2014 WL 61475, at \*2 (S.D.N.Y. Jan. 6, 2014) (holding that this factor weighed in favor of enforcement where the settlement terms had been reduced to writing and “[a]ll that remained to be done was for the parties to sign the documents”); *Conway v. Brooklyn Union Gas Co.*, 236 F. Supp. 2d 241, 251 (E.D.N.Y. 2002) (recommending enforcement of settlement agreement where “there was agreement to each term of the settlement and . . . the parties recognized there were no additional terms remaining to be negotiated”).

43. The material terms entailed Plaintiffs’ full release of claims in exchange for the GUC Trust’s (i) payment of the \$15 million Settlement Amount; (ii) payment of notice costs up to \$6 million; and (iii) agreement to support entry of a Claims Estimate Order that would trigger New GM’s obligation to issue the maximum amount of Adjustment Shares.

44. The parties did not reach these material terms lightly or hastily. For example, during negotiations over the Claims Estimate Order, the Signatory Plaintiffs provided to the GUC Trust extensive expert analyses of claims values and proffers of evidence describing in detail the viability of the asserted claims, including how Old GM violated the due process rights of certain Non-Ignition Switch Plaintiffs.

45. The negotiations over notice costs involved the retention of a professional notice provider, Cameron R. Azari, Esq., the Director of Legal Notice for Hilsoft Notifications, which is a business unit of Epiq Systems Class Action and Claims Solutions. *See* Decl. Ex. B. The parties agreed not only on notice costs, but also on the form and content of both long-form and short-form notices to Plaintiffs, as well as notice to Unitholders. *See* Decl. Exs. Q-S.

46. Further, the parties agreed on the material terms of the Settlement as early as August 3, and *all* terms of the Settlement were finally agreed on as of August 12, with execution a mere formality. *See* Decl. ¶¶ 3, 11-12; *cf. Alvarez v. City of New York*, 146 F. Supp. 2d 327, 336 (S.D.N.Y. 2001) (rejecting the plaintiff's argument that three material terms had not been resolved where plaintiff had agreed to the monetary amount during a conference and did not earlier raise outstanding issues).

47. Any supposed open discussion points, such as obtaining client signatures, related to performance of the Settlement and have no bearing on the enforceability of the Settlement under recent controlling jurisprudence from the District Court for the Southern District of New York and the New York Court of Appeals. *See In re Lehman Bros. Holdings Inc.*, No. 17 Civ. 03424 (DLC), 2017 WL 3278933, at \*3-4 (S.D.N.Y. Aug. 2, 2017) (holding that agreement was enforceable once agreement on all material terms—a sum of money in exchange for a release—was reached regardless of continued negotiations over the performance of the settlement);



N<sup>o</sup>.: 500-06-000687-141  
N<sup>o</sup>.: 500-06-000729-158

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**SUPERIOR COURT**  
DISTRICT OF MONTREAL

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**MICHAEL GAGNON**

*Applicant*

vs

**GENERAL MOTORS OF CANADA COMPANY**

-AND-

**GENERAL MOTORS LLC**

*Defendants*

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**AFFIDAVIT OF VINCENT GENOVA**  
**(Sworn March 14, 2024)**

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121 Richmond St W Suite 900,  
Toronto, ON M5H 2K1  
Telephone: (514) 363 1867

**Christine Nasraoui**  
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3055 Blvd. St-Martin Ouest Bureau T500  
Laval, Québec, H7T 0J3  
Telephone: (514) 248-7777

# Schedule "2"

Schedule "2"

C A N A D A

S U P E R I O R C O U R T  
(Class Action)P R O V I N C E O F Q U E B E C D I S T R I C T  
O F M O N T R E A LN<sup>o</sup> : 500-06-000687-141

M I C H A E L G A G N O N

*Applicant*

-vs-

G E N E R A L M O T O R S O F C A N A D A  
C O M P A N Y

-AND-

G E N E R A L M O T O R S L L C

*Defendants*

C A N A D A

S U P E R I O R C O U R T  
(Class Action)P R O V I N C E O F Q U E B E C  
D I S T R I C T O F M O N T R E A LN<sup>o</sup> : 500-06-000729-158

M I C H A E L G A G N O N

*Applicant*

-vs-

G E N E R A L M O T O R S O F C A N A D A  
C O M P A N Y

-AND-

G E N E R A L M O T O R S L L C

*Defendants*

**AFFIDAVIT OF JENNIFER KEOUGH**  
**(Consent Authorization and Notice Approval)**  
**(Sworn March 15, 2024)**

I, **JENNIFER M. KEOUGH**, of the City of Seattle, in the State of Washington, United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Chief Executive Officer and Co-Founder of JND Legal Administration (“**JND**”), a legal management and settlement administration services firm that has been engaged by Settlement Class Representatives (who are Stacey Green and Michael Gagnon), Co-Lead Counsel (which are Rochon Genova LLP and Kim Spencer McPhee Barristers, P.C.), and GM (which are General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and General Motors LLC (“**New GM**”)), collectively the “**Parties**”, to serve as Settlement Administrator for the Settlement of this matter, subject to entry of the Certification Orders and other terms and conditions of the Settlement Agreement.<sup>1</sup> As such, I have direct knowledge of the matters to which I depose, except those that I state to be based on information and belief, in which case I identify the sources of my information and I believe such information to be true.

2. I have reviewed the following Schedules to the Parties’ Settlement Agreement: Short-Form Certification Notice (Schedule B), Long-Form Certification Notice (Schedule C), Approval Notice (Schedule D), Claim Form (Schedule E), Initial Press Release (Schedule F) and Reminder Press Release (Schedule G) (collectively, the “**Schedules**”). JND also reviewed drafts of these Schedules and provided input to the Parties prior to their finalizing the Schedules. I also have reviewed the initial Notice Program, which is attached hereto as **Exhibit “A”**. JND also reviewed drafts of the initial Notice Program, and provided input to the Parties prior to their finalizing the document. In addition, I have

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<sup>1</sup> In addition to the terms defined in this affidavit, other capitalized terms used herein and not defined have the meaning prescribed in the Settlement Agreement.

reviewed the Parties' Settlement Agreement. JND considered and provided feedback to the Parties on the Sections pertaining to the Settlement Administrator duties prior to agreeing to serve as Settlement Administrator, namely Sections 7 (Claims Program Process and Administration), 9 (Notice to the Class), and 10 (Settlement Class Members' Right to Opt Out and Object).

3. I have also reviewed the decision of the Honourable Justice Nollet dated March 4, 2023. Subsequently, revisions have been made to the Notice Program, the Short-Form Certification Notice, and the Long-Form Certification Notice, in accordance with the Honourable Justice Nollet's direction and advice, which JND has reviewed and provided input for. The revised Notice Program, along with a redline version which documents the changes made, is attached to my affidavit as **Exhibit "B"** (the "**Revised Notice Program**"). The revised Short-Form Certification Notice is attached to my affidavit as **Exhibit "C"** (the "**Revised Short-Form Certification Notice**"). The revised Long-Form Certification Notice, along with a redline version which documents the changes made, is attached to my affidavit as **Exhibit "D"** (the "**Revised Long-Form Certification Notice**").

4. Further, and also in accordance with the Honourable Justice Nollet's direction, Opt-Out and Objection Forms have been created, which are attached to my affidavit as **Exhibit "E"** and **Exhibit "F"**, respectively. As described below, two alternative versions of a Publication Certification Notice (Simplified Print Notice and Standard Print Notice) for use in print and digital versions of newspapers were also created, which are attached to my affidavit as **Exhibit "G"** and **Exhibit "H"**, respectively. Also as described below, digital



website/social media advertisements were also created, which are attached to my affidavit as **Exhibit “I”**.

5. I understand that this affidavit will be used in support of the Plaintiffs’ Motion for, among other things, entry of the Certification Order by the Superior Court of Québec.

6. In this affidavit, I explain the qualifications of JND to act as the Settlement Administrator for the Settlement, and I provide my opinion as to the efficacy of the Revised Notice Program.

## **EXPERTISE AND PROPOSED APPOINTMENT AS SETTLEMENT ADMINISTRATOR**

### **Background on JND**

7. JND is a legal administration services provider with its headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases.

### **My expertise**

8. As CEO of JND, I am involved in all facets of our Company’s operations, including monitoring the implementation of our notice and claims administration programs. I have personally led the design and implementation of a substantial number of Canadian legal notification campaigns. Most recently, I designed the notice plans for the Loblaw Voluntary Remediation Card Program and the Settlement in *Kalra v. Mercedes-Benz Canada, Inc*, Case No. CV-16-550271-00CP (Ont. Super. Ct.). Additionally, JND manages numerous securities cases that involve communication and coordination with Canadian Class Members on a daily basis.

9. JND also acted as the administrator in respect of the U.S. economic loss class action settlement in: *In re: General Motors LLC Ignition Switch Litigation*, MDL No. 14-MD-2543 (JMF). As a result, we have direct experience with the same vehicle models and U.S. recalls parallel to the Canadian recalls which form the subject of this proceeding. In addition, JND has an Auto Solutions team with experience implementing notice programs and claims administration for over fifty other automotive class actions, including the Mercedes-Benz Emissions Litigation which had parallel U.S. and Canadian class actions. JND served as administrator for both the U.S. and Canadian settlements, among others.

10. I provide the details of JND's class action administration experience, including a list of class actions in which certification and/or settlement approval notice programs were deployed under my direction, in **Exhibit "B"** to my affidavit.

11. In forming the opinion expressed below, I draw from my class action administration experience, as well as my educational experience. I have a Master of Science degree (Finance specialization) from Seattle University, and a J.D. from Seattle University School of Law. I have more than 23 years of legal experience creating and supervising notice and claims administration programs and have personally overseen well over 500 matters. For more than seven (7) years, I have served as the Chief Executive Officer of JND, a company I co-founded in March of 2016.

## **THE NOTICE PROGRAM**

### **Class Member Data**

12. I have been advised by counsel for GM Canada and New GM that 1,219,809 unique Vehicle Identification Numbers (VIN's) have been identified as potential Subject Vehicles



under the Settlement. I have also been advised by counsel for GM Canada and New GM that approximately 114,900 valid e-mail addresses are available from GM for proposed Settlement Class Members, and that approximately 290,000 physical mailing addresses that were provided to GM since 2020 are available for proposed Settlement Class Members.

#### **Efficacy of the Certification/Authorization Notice Program**

13. The elements of the proposed Revised Notice Program related to providing notice of the certification/authorization of the Actions, the terms of the proposed Settlement, and opt-out, objection, and intervention procedures to the proposed Settlement Class Members include:

- a) Providing direct notice of the certification/authorization of the Actions, through the Revised Short-Form Certification Notice, to approximately 114,900 Settlement Class Members with valid e-mail addresses plus Settlement Class Members whose email addresses have been collected by class counsel over the course of this litigation;
- b) Providing notice of the certification/authorization of the Actions to the public through the Revised Long-Form Certification Notice, which will be made available on the Settlement Website and hyperlinked in the emailed Revised Short-Form Certification Notice;
- c) Providing notice of the certification/authorization of the Actions to the public through an advertisement campaign in the print and digital versions of various



widely distributed Canadian newspapers using either a “Simplified Print Notice” or “Standard Print Notice”;

- d) Providing notice of the certification/authorization of the Actions to the public through an extensive digital advertisement campaign, which includes digital website advertisements via the Google Display Network and social media advertisements on Facebook over a 4-week duration; and
- e) Providing notice of the certification/authorization of the Actions to the public through a press release that will reach approximately 3,000 or more media outlets. (collectively, “**Certification/Authorization Notice**”).

14. A modified version of the Revised Short-Form Certification Notice, which will either be a “Simplified Print Notice” or “Standard Print Notice”, substantially in the form as attached to the Notice Program as Schedule A and also to my affidavit as **Exhibits “G” and “H”** and also shown below (“**Publication Certification Notice**”), will be published in the following newspapers, which combined have a daily circulation of 1.3 million copies: The Globe & Mail, The National Post, Toronto Star, The Montreal Gazette, La Presse+ and Le Journal de Québec.

15. The “Simplified Print Notice” is a summarized version of the notice that seeks to catch a reader’s attention with larger print, while providing a QR code linking the reader to the Settlement Website and the URL for further information, The Settlement Website will include the Revised Long-Form Certification Notice and Revised Short-Form Certification Notice. The digital versions will include a hyperlink to the Settlement Website

in addition to the QR code. The telephone number “[TFN]” for the Settlement Administrator is also provided:

LEGAL NOTICE

## If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

<p style="text-align: center; font-weight: bold; margin-bottom: 10px;"><u>YOUR LEGAL RIGHTS AND OPTIONS</u></p> <p><b>Do Nothing</b></p> <ul style="list-style-type: none"> <li>▶ Submit a claim for benefits, if/after the Settlement is approved</li> <li>▶ Be bound by the Settlement, if approved</li> </ul> <p><b>Opt-Out from the Settlement by [date], 2024</b></p> <ul style="list-style-type: none"> <li>▶ Receive no payment, if/when the Settlement is approved</li> <li>▶ Keep your right to sue GM for economic loss</li> </ul> <p><b>Object to the Settlement by [date], 2024</b></p> <ul style="list-style-type: none"> <li>▶ You can only object if you do not opt-out of the Settlement</li> </ul>	<p><b>Attend the Approval Hearing</b></p> <ul style="list-style-type: none"> <li>▶ Before the Ontario Superior Court of Justice on [month/ date], 2024</li> <li>▶ Before the Superior Court of Québec on [month/ date], 2024</li> </ul> <p style="text-align: center; font-weight: bold; margin: 10px 0;"><u>LEARN MORE / REGISTER FOR UPDATES</u></p> <div style="text-align: center; margin: 10px 0;">  </div> <p style="text-align: center;">[settlement website]</p> <p style="text-align: center;">[TFN]</p> <p style="text-align: center;">Pour une notice en Français, visitez [settlement website]</p>
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16. The alternative “Standard Print Notice” is a more traditional notice that mirrors almost all of the content in the Short-Form Certification Notice:



## LEGAL NOTICE

## GM Ignition Switch, Key Rotation, Camaro Knee-Key &amp; Electric Power Steering Economic Settlement Information

## If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.

*Four une notice en Français, visitez [settlement website]*

The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights. You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the "Courts") have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC ("New GM") and General Motors of Canada Company (formerly General Motors of Canada Limited) ("GM Canada") (collectively, "GM") deny these allegations.

#### Who Is Included?

The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM's announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.

#### What Does the Settlement Provide?

If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible Settlement Class Members who file claims. Plaintiffs' counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These class claims have been discontinued from the class actions, but any such individual claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.

#### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

##### Option 1: Participate in the Settlement – Do nothing for now

If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

##### Option 2: Opt-out of the Settlement

You may opt-out of the Settlement, in which case you will not be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-

out form (see below) must be sent by [date], 2024. You may not opt-out and object.

**IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.**

##### Option 3: Object to the Settlement

If you do not opt-out and if you do not like the Settlement, you may object to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by [date], 2024.

##### Opt-Out Form, Objection Form and their submission

The opt-out form, objection form and further information are available at [settlement website].

Non-Québec residents should send their opt-out form or objection form to the Settlement Administrator (see below). If you are a Québec resident, your objection or opt-out form should be sent to the following address:

Clerk of the Superior Court of Québec  
Montréal Court house  
Re: *Michiel Gagnon v.  
General Motors of Canada et al.*  
500-06-000687-111 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1120  
Montréal, Québec H2Y 1B5

##### Approval Hearings

The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and potentially, plaintiffs' counsel fees and expenses will take place before the Ontario Superior Court of Justice on [month/date], 2024 at [time] a.m. eastern time; and the Superior Court of Québec on [month/date], 2024 at [time] a.m. eastern time. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.

#### YOU MAY SEEK ADDITIONAL INFORMATION

##### Contact Class Counsel

Rechen Genova LLP  
Attention: Joan Sloan  
jsloan@rechengenova.com  
Tel: 1-866-881-2292 or local (416) 363-1867  
Kim Spencer McPhee Barristers P.C.  
Attention: Megan B. McPhee  
mbm@mcspencer.com  
Tel: (416) 596-1414

##### Settlement Website

See [settlement website] for the Long-Form Notice, important documents and forms, answers to common questions and other detailed information to help you.

##### Settlement Administrator

The Settlement Administrator can be reached at [email/phone/address].

17. Based on our experience, we recommend that the “Simplified Print Notice” be utilized as the Publication Certification Notice as it captures the attention of readers and provides more effective notice to class members than the “Standard Print Notice.” It is our opinion, based on our experience, that such simplified notices lead to greater take-up rates in class action settlements. The “Simplified Notice” will also save about \$13,500 CAD in Administration Expenses, because the “Standard Print Notice” includes a greater amount of text which increases the cost of publication. The savings of \$13,500 will be available for distribution to Settlement Class Members.

18. The Revised Notice Program also includes digital website advertisements via the Google Display Network and on Facebook (**Exhibit “I”** to my affidavit). Facebook is recommended because the demographic of the proposed Settlement Class Members is expected to be older. The Google Display Network is the leading digital network comprised of over two million websites, videos and apps most likely visited by Canadians. Activity on Google Display Network will exclude certain GM-owned websites such as gm.ca, gm.com, chevrolet.com, chevrolet.ca, buick.com, buick.ca, gmc.com, gmccanada.ca, cadillac.com, cadillaccanada.ca, onstar.com, and onstar.ca. The digital advertisements on Google Display Network and Facebook will include a link to the Settlement Website for further information. It is estimated that these digital advertisements will generate 74 million impressions or “ad views.” Impressions or exposures are the total number of opportunities to be exposed to a media vehicle or combination of media vehicles containing a notice. Impressions are a gross or cumulative number that may include the same person more than once.



19. Finally, a press release announcing the certification/authorization of the Actions will be provided to over 3,000 Canadian media outlets via a press release service.

20. It is common to estimate the efficacy of a proposed notice program through its reach. Reach is the percentage of a specific population group exposed to a media vehicle or a combination of media vehicles containing a notice at least once over the course of a campaign. Reach factors out duplication, representing total unique persons. We estimate that the total reach of the Certification/Authorization Notice will be at least 70% of all Canadians 18 years of age or older.

21. The estimated cost for each element of the Certification/Authorization Notice is approximately:

- a) Settlement Website (including for use in the settlement approval and claims phases): \$21,070 CAD
- b) Settlement Phone Number (including for use in the settlement approval and claims phases): \$27,750 CAD
- c) Email Direct Notice: \$3,850 CAD
- d) Newspaper Notices (print and digital): \$33,770 CAD if Simplified Print Notice is used or \$47,000 CAD if the Court directs the Parties to use the Standard Print Notice
- e) Website/Social Media Advertisements (Google Display Network and Facebook): \$60,800 CAD

- f) Initial Press Release: \$2,700 CAD
- g) Total: \$149,940 CAD (assuming the lower cost Simplified Print Notice is used)

22. Based on my experience, the estimated total reach of the Certification/Authorization Notice, and the estimated cost associated with it, it is my belief that the Revised Notice Program represents effective, clear, cost-efficient and proportional notice, given the comments of Justice Nollet in his March 4, 2024 decision and the circumstances of this case.

#### **Notice Program Details**

23. As set out in the proposed Revised Notice Program, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- a) Posting English and French copies of the Settlement Agreement, as well as the Certification Notices and Approval Notice (when available), a proposed template of which is attached as Schedule D to the Settlement Agreement;
- b) A summary of the benefits available to Eligible Claimants under the Settlement;
- c) The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in

accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;

- d) A searchable VIN interface (i.e., the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- e) Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- f) Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and
- g) Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims.

24. As set out in the proposed Revised Notice Program, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Revised Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.



25. As set out in the proposed Notice Program, the Certification/Authorization Notice will be disseminated as follows:

- a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Revised Short-Form Certification Notice by e-mail to:
  - i) all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
  - ii) to all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid e-mail address; and

the e-mails will contain hyperlinks to the Settlement Website, Revised Long-Form Certification Notice, Opt-Out Form, and Objection Form.

The Short-Form Certification Notice, in English and French, will be published as follows:

- b) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Publication Certification Notice in the newspapers below (collectively, the "Newspapers") in either English or French, as applicable, to supplement the direct notice being provided by e-mail. The Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse+* which is only available in a digital format:



- |  |  |  |
|--|--|--|
| (i) <i>The Globe and Mail</i><br>(national edition)  | (ii) <i>The National Post</i> (national edition) | (iii) <i>The Gazette</i> (Montréal)            |
| (iv) <i>La Presse+</i><br>(Montréal)<br>DIGITAL ONLY | (v) <i>Le Journal du Québec</i> (Québec City)    | (vi) <i>Toronto Star</i><br>(national edition) |

- i) The Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- c) If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Revised Short-Form Certification Notice and the Revised Long-Form Certification Notice on their own law firm websites.
- d) If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital website/social media advertisements via the Google Display Network and on Facebook, which shall be substantially in the form as attached to the Revised Notice Program as Schedule B and also to my affidavit as **Exhibit "I"**, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a Canadian audience with 74 million impressions estimated.

26. As set out in the proposed Notice Program, if the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, to be published in English and

French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.

27. It is my view that the Certification/Authorization Notice and Revised Notice Program serve as an effective and efficient means of bringing the Settlement terms, certification/authorization, and opt-out, objection and intervention options/procedures to the attention of Settlement Class Members through a variety of media outlets and are effective in conveying such information to the Settlement Class.

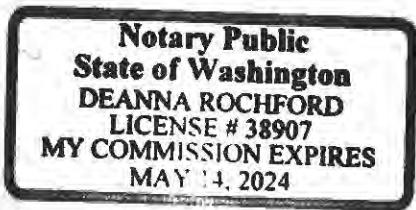
SWORN before me in the )  
City of Seattle, in the State of )  
Washington, this 15<sup>th</sup> day of )  
March, 2024 )

*Deanna Rochford*

*A Commissioner, etc.*

*Jennifer M. Keough*

JENNIFER M. KEOUGH



**EXHIBIT A – INITIAL NOTICE PROGRAM**

**GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC  
POWER STEERING ECONOMIC SETTLEMENT**

**NOTICE PROGRAM**

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

**I. OVERVIEW**

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print and digital media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available), proposed templates of which are attached as Schedules B, C and D to the Settlement Agreement;
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement; and

- Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:
  - (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
  - (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.
2. It is proposed that the Notices be issued as follows:
  - (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), a template of which is attached as Schedule C to the Settlement Agreement, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties. The Long-Form Certification Notice will contain the URL for the Settlement Website;



- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), a template of which is attached as Schedule B to the Settlement Agreement, providing a brief summary of the Settlement in a form and with content to be agreed upon by the Parties. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website;
  - (c) An Approval Notice, a template of which is attached as Schedule D to the Settlement Agreement, in a form and with content to be agreed upon by the Parties;
  - (d) A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“**Initial Press Release**”), a template of which is attached as Schedule F to the Settlement Agreement, in a form and with content to be agreed upon by the Parties, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
  - (e) A potentially modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, which will include the URL of the Settlement Website; and
  - (f) A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), a template of which is attached as Schedule G to the Settlement Agreement, in a form and with content to be agreed upon by the Parties, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.
3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

- 1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail to:

- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
- ii. to all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website where a copy of the Long-Form Notice will be available.

2. The Short-Form Certification Notice, in English and French, will be published as follows:

- (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Short-Form Certification Notice, the form and content of which shall be agreed to by the Parties, in the newspapers below (collectively, the "**Newspapers**") in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This Short-Form Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse* which is only available in a digital format:

- |   |   |  |
|---|---|--|
| (i) <i>The Globe and Mail</i><br>(national edition) | (ii) <i>The National Post</i><br>(national edition) | (iii) <i>The Gazette</i> (Montréal)            |
| (iv) <i>La Presse</i><br>(Montréal)<br>DIGITAL ONLY | (v) <i>Le Journal de Québec</i><br>(Québec City)    | (vi) <i>Toronto Star</i><br>(national edition) |

- (b) The Short-Form Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- (c) If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short-Form Certification Notice and Long-Form Certification Notice on their own law firm websites.

## **B. Approval Notice**

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:
  - (a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail to:

- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
- ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
- iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
  - i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph



III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.

2. The Approval Notice, in English and French, will be published as follows:

- (a) If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, a potentially modified version of the Approval Notice, the form and content of which shall be agreed by the Parties, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of *La Presse*. The Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- (b) If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, a potentially modified version of the Approval Notice, the form and content of which shall be agreed by the Parties, in each of the magazines below (collectively, the “**Magazines**”). The Approval Notice will be published in the print editions of each of the Magazines, and will appear in the issue of each of the Magazines that is circulated immediately before or after the first day of the Claims Program, whichever is closest:

(i) *Reader’s Digest*  
Canada (National)      (ii) *Toronto Life* (Toronto)      (iii) *Best Health*  
Canada (National)

(iv) *Our Canada*  
(National)      (v) *Sélection du Reader’s*  
*Digest* (National/French)

3. Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

**C. Press Releases**

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, in a form and with content to be agreed upon by the Parties, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, in a form and with content to be agreed upon by the Parties, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

**EXHIBIT B1 – REVISED NOTICE PROGRAM**

**GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC  
POWER STEERING ECONOMIC SETTLEMENT**

**NOTICE PROGRAM**

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

**I. OVERVIEW**

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print digital and social media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available);
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and

- Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:
  - (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
  - (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.
2. It is proposed that the Notices be issued as follows:
  - (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), the form and content of which shall be substantially in the form as attached to the Affidavit of Jennifer Keough, Sworn March 15, 2024 (“**JND Affidavit**”) as Exhibit D, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Long-Form Certification Notice will contain the URL for the Settlement Website;

- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), the form and content of which shall be substantially in the form as attached to the JND Affidavit as Exhibit C, providing a brief summary of the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and Long-Form Certification Notice;
- (c) A modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be substantially in the form of one of the two options (whichever one approved by the Courts) attached to the JND Affidavit as Exhibits G and H, and will include the URL of/hyperlink to the Settlement Website (“**Publication Certification Notice**”);
- (d) Digital internet advertisements directed to Canadian citizens via the Google Display Network with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (e) Social media advertisements via Facebook with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (f) A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“**Initial Press Release**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule F and as approved by the courts, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
- (g) A settlement approval notice (“**Approval Notice**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule D, and will be approved by the Courts at the Settlement Approval Hearings;
- (h) A modified version of the Approval Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, and will include the URL of the Settlement Website (“**Publication Approval Notice**”);
- (i) Digital internet advertisements directed to Canadian citizens via the Google Display Network including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the Settlement Approval Hearings;
- (j) Social media advertisements via Facebook including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the

Settlement Approval Hearings;

- (k) A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule G and will be approved by the Courts at the Settlement Approval Hearings, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.
3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail, in English and French, to:
    - i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
    - ii. to all Settlement Class Members who have contacted plaintiffs’ counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and the Long-Form Certification Notice.

2. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Publication Certification Notice, in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse+* which is only available in a digital format:

- |  |   |  |
|--|---|--|
| (i) <i>The Globe and Mail</i><br>(national edition)  | (ii) <i>The National Post</i><br>(national edition) | (iii) <i>The Gazette</i> (Montréal)            |
| (iv) <i>La Presse+</i><br>(Montréal)<br>DIGITAL ONLY | (v) <i>Le Journal de Québec</i><br>(Québec City)    | (vi) <i>Toronto Star</i><br>(national edition) |

- (a) The Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers. In the digital editions, the Publication Certification Notice will contain a hyperlink to the Settlement Website.
3. If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short-Form Certification Notice and Long-Form Certification Notice on their own law firm websites.
4. If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital internet advertisements on the Google Display Network, and social media advertisements on Facebook, which shall be substantially in the form as attached to the JND Affidavit as Exhibit I, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with over 70 million impressions estimated.

## **B. Approval Notice**

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:
- (a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail, in English and French, to:
- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
  - ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
  - iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the



Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
- i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.
2. If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, the Publication Approval Notice, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of *La Presse+*. The Publication Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal

notices by the Newspapers.

3. If and when the Courts approve the Settlement, the Settlement Administrator will arrange for the publication of internet advertisements on the Google Display Network and social media advertisements on Facebook, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with 45 million impressions estimated.

Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

### **C. Press Releases**

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, which shall be substantially in the form attached to the Settlement Agreement as Schedule F, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, which shall be substantially in the form attached to the Settlement Agreement as Schedule G, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

**EXHIBIT B2 – REVISED NOTICE PROGRAM [REDLINE]**

## GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT

### NOTICE PROGRAM

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

#### I. OVERVIEW

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print ~~and~~ digital and social media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available), ~~proposed templates of which are attached as Schedules B, C and D to the Settlement Agreement;~~
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and
- Contact information for the Settlement Administrator including the Settlement Phone

Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:

- (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
- (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.

2. It is proposed that the Notices be issued as follows:

- (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), ~~a template~~ the form and content of which ~~is~~ shall be substantially in the form as attached ~~as Schedule C~~ to the ~~Settlement Agreement~~ Affidavit of Jennifer Keough, Sworn March 15, 2024 (“JND Affidavit”) as Exhibit D, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Long-Form Certification Notice will contain the URL for the Settlement Website;
- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), ~~a template~~ the form and content of which ~~is~~ shall be substantially in the form as attached ~~as Schedule B~~ to the ~~Settlement Agreement~~ JND Affidavit as Exhibit C, providing a brief summary of the Settlement in a form and with content to be

agreed upon by the Parties and approved by the Courts. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and Long-Form Certification Notice;

- (c) ~~An Approval Notice, a template of which is attached as Schedule D~~ A modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be substantially in the form of one of the two options (whichever one approved by the Courts) attached to the JND Affidavit as Exhibits G and H, and will include the URL of/hyperlink to the Settlement Website (“Publication Certification Notice”);
- (d) Digital internet advertisements directed to Canadian citizens via the Google Display Network with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (e) Social media advertisements via Facebook with a “Learn More” hyperlink to the Settlement Agreement Website, in a form and with content to be agreed upon by the Parties substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (f) ~~(d)~~ A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“Initial Press Release”), a template of which is shall be substantially in the form attached as Schedule F to the Settlement Agreement, in a form and with content to be agreed upon as Schedule F and as approved by the Parties courts, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
- (g) ~~(e)~~ A potentially A settlement approval notice (“Approval Notice”), which shall be substantially in the form attached to the Settlement Agreement as Schedule D, and will be approved by the Courts at the Settlement Approval Hearings;
- (h) A modified version of the Short-Form-Certification Approval Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, and will include the URL of the Settlement Website (“Publication Approval Notice”); and
- (i) Digital internet advertisements directed to Canadian citizens via the Google Display Network including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the Settlement Approval Hearings;
- (j) Social media advertisements via Facebook including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the

Settlement Approval Hearings;

(k) ~~(f)~~ A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), ~~a template of which is~~ shall be substantially in the form attached ~~as Schedule G~~ to the Settlement Agreement, ~~in a form as Schedule G~~ and ~~with content to~~ will be agreed upon ~~approved~~ by the ~~Parties~~ Courts at the Settlement Approval Hearings, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.

3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail, in English and French, to:
    - i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
    - ii. to all Settlement Class Members who have contacted plaintiffs’ counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website ~~where a copy of~~ Opt-Out Form, Objection Form and the Long-Form ~~Notice will be available.~~ ~~2. The Short-Form Certification Notice, in English and French, will be published as follows:~~

2. ~~(a)~~ If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the ~~Short-Form~~ Publication Certification Notice, ~~the form and content of which shall be agreed to by the Parties~~, in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This ~~Short-Form~~ Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse* ~~+~~ which is only available in a digital format:

Mail: ~~(ii)~~ ~~(iii)~~ *The National Post* (national edition) ~~(iii)~~ ~~(iii)~~ *The Gazette* (Montréal)

(iv) *La Presse*<sup>+</sup> (Montréal) DIGITAL ONLY (v) *Le Journal de Québec* (Québec City) (vi) *Toronto Star* (national edition)

(a) ~~(b)~~ The ~~Short-Form~~ Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers. In the digital editions, the Publication Certification Notice will contain a hyperlink to the Settlement Website.

3. ~~(e)~~ If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short- Form Certification Notice and Long-Form Certification Notice on their own law firm websites.

4. If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital internet advertisements on the Google Display Network, and social media advertisements on Facebook, which shall be substantially in the form as attached to the JND Affidavit as Exhibit I, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with over 70 million impressions estimated.

## B. Approval Notice

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:

(a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail, in English and French, to:

- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
- ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
- iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the



Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
- i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.

~~2. The Approval Notice, in English and French, will be published as follows:~~

2. ~~(a)~~ If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, ~~a potentially modified version of the~~ Publication Approval Notice, the form and content of which shall be ~~agreed~~ approved by the ~~Parties~~ Courts at the Settlement Approval Hearings, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of La Presse+. The Publication Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the

Newspapers.

3. ~~(b)~~ If and when the Courts approve the Settlement, the Settlement Administrator will ~~publish, in English or French, as applicable, a potentially modified version of the Approval Notice~~ arrange for the publication of internet advertisements on the Google Display Network and social media advertisements on Facebook, the form and content of which shall be ~~agreed~~ approved by the Parties, ~~in each of the magazines below (collectively, the “Magazines”). The Approval Notice will be published in the print editions of each of the Magazines, and will appear in the issue of each of the Magazines that is circulated immediately before or after the first day of the Claims Program, whichever is closest:~~

~~(i) Reader’s Digest Canada (National)~~

~~(ii) Toronto Life (Toronto) — (iii) Best Health  
Canada (National)~~

~~(iv) Our Canada~~

~~(National)~~

~~(v) — lection du Reader’s Digest (National/French)~~ Courts at the Settlement Approval Hearings, in either English or French, depending on the website’s language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with 45 million impressions estimated.

3. Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

### C. Press Releases

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, which shall be substantially in the form and with content attached to be agreed upon by the Parties Settlement Agreement as Schedule F, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, which shall be substantially in the form and with content attached to be agreed upon by the Parties Settlement Agreement as Schedule G, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

Document comparison by Workshare Compare on March 18, 2024 9:50:40 AM

Input:	
Document 1 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/GM Gagnon/Exhibits - JND Affidavit/Up to date JND Exhibits/A - Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement.pdf
Description	A - Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement
Document 2 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/GM Gagnon/Exhibits - JND Affidavit/Up to date JND Exhibits/B1A - Revised Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement.pdf
Description	B1A - Revised Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
	<u>Moved to</u>
	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	88
Deletions	75
Moved from	1

Moved to	1
Style changes	0
Format changes	0
Total changes	165

**EXHIBIT C1 – REVISED SHORT-FORM CERTIFICATION NOTICE [ENG]**

## Schedule “B” – Short-Form Certification Notice

NOTICE OF CANADIAN CLASS ACTIONS CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARINGGM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering  
Economic Settlement InformationIf You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.

*Pour une notice en Français, visitez [[settlement website](#)].*

The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights. You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) (collectively, “GM”) deny these allegations.

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>Who Is Included?</b>	The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [ <a href="#">settlement website</a> ] or call [ <a href="#">phone number established by Settlement Administrator</a> ], to see if your GM vehicle is covered by the Settlement.
<b>What Does the Settlement Provide?</b>	If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible settlement class members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These <i>class</i> claims have been discontinued from the class actions, but any such <i>individual</i> claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.
<b>Option 1: Participate in the Settlement – Do nothing for now</b>	If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.
<b>Option 2: Opt out of the Settlement</b>	You may <b>opt-out</b> of the Settlement, in which case you will <u>not</u> be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual

## Schedule “B” – Short-Form Certification Notice

	lawsuits. Your <a href="#">opt-out form</a> (see below) must be sent by <b>[date]</b> , 2024. You may not opt out and object.  <b>IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.</b>
<b>Option 3: Object to the Settlement</b>	If you do not opt-out and if you do not like the settlement, you may <b>object</b> to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your <a href="#">objection form</a> (see below) must be sent by <b>[date]</b> , 2024.
<b>Opt-Out Form, Objection Form and their submission</b>	The <a href="#">opt-out form</a> , <a href="#">objection form</a> and further information are available at <b>[settlement website]</b> . <u>Non-Quebec residents</u> should send their opt-out form or objection form to the Settlement Administrator (see below). <u>If you are a Quebec resident</u> , your objection or opt-out form should be sent to the following address:  Clerk of the Superior Court of Quebec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5
<b>Approval Hearings</b>	The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs’ counsel fees and expenses will take place before the Ontario Superior Court of Justice on <b>[month/date]</b> , 2024 at <b>[time]</b> a.m. eastern time; and the Superior Court of Québec on <b>[month/date]</b> , 2024 at <b>[time]</b> a.m. eastern time. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.  You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.
<b>YOU MAY SEEK ADDITIONAL INFORMATION</b>	
<b>Contact Class Counsel</b>	Rochon Genova LLP Attention: Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867
	Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414
<b>Settlement Website</b>	See <b>[settlement website]</b> for the <a href="#">Long-Form Notice</a> , important documents and forms, answers to common questions and other detailed information to help you.
<b>Settlement Administrator</b>	The Settlement Administrator can be reached at <b>[email/phone]</b> .



**EXHIBIT C2 – REVISED SHORT-FORM CERTIFICATION NOTICE [FR]**

## Annexe « B » - Avis de certification abrégé

AVIS DE CERTIFICATION/AUTORISATION D'ACTIONS COLLECTIVES CANADIENNES ET  
D'AUDIENCE D'APPROBATION DU RÈGLEMENTInterrupteurs à clé de contact GM, rotation de la clé, Camaro clé-genou et direction assistée  
électrique

## Informations sur le règlement des pertes pécuniaires

**Si vous avez possédé ou loué un véhicule GM visé par certains rappels en 2014, vous pouvez bénéficier de droits et d'options dans le cadre du Règlement proposé.**

*For the English Notice, please visit [insert website].*

**Le présent avis a pour objet de vous informer de la certification/autorisation des actions collectives, du règlement proposé et de vos droits légaux.** Cet avis vous a été envoyé parce que vous êtes peut-être Membre du Groupe du Règlement

La Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec (les « Cours ») ont certifié/autorisé, à des fins de règlement, des actions collectives visant à obtenir une indemnisation pour les pertes pécuniaires subies par les propriétaires ou locataires actuels et passés de certains véhicules GM rappelés en 2014 (le « Règlement »). Les rappels concernaient les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les Cours examineront le règlement des actions collectives proposé à l'échelle nationale lors des audiences à venir. Les rappels concernent les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les représentants des actions collectives allèguent que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué ces véhicules. General Motors LLC (« New GM ») et General Motors du Canada Company (anciennement General Motors du Canada Limitée) (« GM Canada ») (collectivement, « GM ») nient ces allégations.

## VOS DROITS ET OPTIONS DANS LE CADRE DE CE RÈGLEMENT

<b>Qui est inclus ?</b>	Le Groupe de Règlement proposé, qui a été certifiée ou autorisée par les Cours à des fins de règlement seulement, comprend (paraphrasée) toutes les personnes résidant au Canada (individus, entreprises et organisations) qui, à tout moment le jour de ou avant l'annonce par GM de certains rappels 2014, ont possédé, acheté et/ou loué un véhicule soumis à l'un des rappels dans l'une des provinces/territoires du Canada. Les entreprises de location quotidienne, les entités gouvernementales et certaines autres personnes ne sont pas incluses. Rendez-vous sur le [site Web du règlement] ou appelez [numéro de téléphone établi par l'administrateur du règlement] pour voir si votre véhicule GM est visé par le règlement.
<b>Que prévoit le Règlement ?</b>	S'il est approuvé, un fonds de Règlement de 12 millions de dollars canadiens sera créé. Les montants versés aux membres éligibles du Groupe de Règlement varieront en fonction des rappels qui s'appliquent à leurs véhicules, du montant des frais administratifs et du nombre de membres éligible du Groupe du Règlement qui déposeront des réclamations. Les honoraires et autres frais des avocats des demandeurs seront payés séparément par GM et ne seront pas déduits du fonds de règlement. Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour des dommages corporels (et réclamations connexes de la famille/des personnes à charge), une mort injustifiée ou des dommages matériels réels liées aux rappels de 2014. Ces réclamations de <i>groupe</i> ont fait l'objet d'un désistement dans les actions collectives, peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations <i>individuelles</i> ne seront pas renoncées ou quittancées par l'approbation du Règlement.
<b>Option 1 : Participer au</b>	Si vous êtes satisfait du Règlement, vous n'avez rien à faire pour l'instant. Vous pourrez présenter une réclamation pour compensations admissibles si le Règlement est approuvé. Vous pouvez

## Annexe « B » - Avis de certification abrégé

<b>règlement - Ne rien faire pour l'instant</b>	enregistrer votre adresse courriel ou postale sur le Site Web du règlement pour vous assurer de recevoir un avis d'approbation du tribunal et la date limite de présentation des demandes.	
<b>Option 2 : s'exclure du Règlement</b>	<p>Vous pouvez vous <b>exclure</b> du règlement, auquel cas vous <b>ne serez pas</b> admissible à des prestations. Vous vous prévaloir de cette mesure si vous souhaitez vous exclure et préserver votre droit individuel de poursuivre GM pour perte économique. Demandez conseil à votre avocat au sujet des délais légaux pour les poursuites individuelles. Votre <a href="#">formulaire d'exclusion</a> (voir ci-dessous) doit être envoyé avant le <b>[date], 2024</b>. Vous ne pouvez pas vous désinscrire <i>et</i> vous opposer.</p> <p><b>SI VOUS NE VOUS EXCLUEZ PAS ET QUE LE RÈGLEMENT EST APPROUVÉ, VOUS SEREZ LIÉ PAR LA QUITTANCE, LA RENONCIATION ET L'ENGAGEMENT DE NE PAS POURSUIVRE.</b></p>	
<b>Option 3 : s'opposer au Règlement</b>	Si vous ne vous excluez pas et si vous vous êtes en désaccord avec le Règlement, vous pouvez vous <b>opposer</b> au règlement avant que les Cours n'examinent s'il doit être approuvé et, si vous le souhaitez, assister à une audience d'approbation. Votre <a href="#">formulaire d'objection</a> (voir ci-dessous) doit être envoyé avant le <b>[date] 2024</b> .	
<b>Formulaire d'exclusion, formulaire d'opposition et leur soumission</b>	<p>Le <a href="#">formulaire d'exclusion</a>, le <a href="#">formulaire d'objection</a> et d'autres informations sont disponibles au <a href="#">site Web de règlement</a>. Les non-résidents du Québec doivent envoyer leur formulaire d'exclusion ou d'objection à l'Administrateur du règlement (voir ci-dessous). Si vous résidez au Québec, votre formulaire d'exclusion ou d'objection doit être envoyé à l'adresse suivante:</p> <p style="text-align: center;">Greffier de la Cour supérieure du Québec Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors du Canada et al.</i> 500-06-000687-141   500-06-000729-158 1, rue Notre-Dame Est, salle 1.120 Montréal (Québec) H2Y 1B5</p>	
<b>Audiences d'approbation</b>	<p>Le Règlement doit être approuvé par les Cours pour entrer en vigueur. Les audiences visant à déterminer s'il y a lieu d'approuver le règlement et, éventuellement, les honoraires et les frais d'avocat des demandeurs auront lieu devant la Cour supérieure de justice de l'Ontario le <b>[mois/date] 2024</b> à <b>[heure]</b>, heure de l'Est, et devant la Cour supérieure du Québec le <b>[mois/date] 2024</b> à <b>[heure]</b>, heure de l'Est. Vous pouvez enregistrer votre adresse courriel ou postale sur le Site Web du Règlement pour vous assurer de recevoir l'avis d'approbation du tribunal et la date limite de présentation des réclamations.</p> <p>Vous pouvez comparaître aux audiences d'approbation, soit personnellement, soit par l'entremise d'un avocat que vous avez mandaté, mais vous n'êtes pas tenu de le faire.</p>	
<b>VOUS POUVEZ DEMANDER DES INFORMATIONS SUPPLÉMENTAIRES</b>		
<b>Communiquer avec l'avocat du groupe</b>	<p>Rochon Genova LLP À l'attention de Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel : 1-866-881-2292 ou local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers C.P. À l'attention de Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Téléphone : (416) 596-1414</p>
<b>Site Web du règlement</b>	Consultez le <a href="#">site Web de règlement</a> pour accéder à l' <a href="#">avis de certification/autorisation long</a> , les documents et formulaires importants, les réponses aux questions fréquentes et d'autres renseignements détaillés pour vous aider.	
<b>Administrateur de règlement</b>	Vous pouvez contacter l'Administrateur du règlement à l'adresse <b>[email/téléphone]</b> .	

**EXHIBIT D1 - REVISED LONG-FORM CERTIFICATION NOTICE [ENG]**

Ontario Superior Court of Justice / Superior Court of Québec

**NOTICE OF CLASS ACTION CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**If You Are a Current or Former Owner or Lessee of a GM  
Vehicle that was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below),  
your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you that the Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current and former owners or lessees of certain GM vehicles that were recalled in 2014 (the “**Settlement**”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.
- The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment

Schedule “C” – Long-Form Certification Notice

amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.

- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and for [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec. These hearings are public. You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• <b><u>The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.</u></b></li> <li>• At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending. If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member will have to complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</li> <li>• Settlement Class Members will be able to complete their claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at [settlement website].</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<b>Exclude Yourself or “Opt Out”</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at their own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.</li> </ul>

## Schedule “C” – Long-Form Certification Notice

	<ul style="list-style-type: none"> <li>Your request to opt out must be received by [date], 2024. Non-Quebec residents may send their opt out request to the Settlement Administrator. Quebec residents should send their opt out request to the following address:  Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</li> <li>More information about how to opt out of the Settlement can be found in paragraph 8 below and at [settlement website]. An opt-out form is available on this website.</li> </ul>
<b>Object</b>	<ul style="list-style-type: none"> <li>Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by [date], 2024. Non-Quebec residents should send their objections to the Settlement Administrator. Quebec residents should send their objections to the following address:  Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</li> <li>Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be bound by any Court-approved Settlement even though they objected to it.</li> <li>More information about how to object can be found in paragraph 10 below and at [settlement website]. An objection form is available on this website.</li> </ul>
<b>Go to the Hearing</b>	<ul style="list-style-type: none"> <li>To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and on [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec.</li> <li>The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings if they choose to do so (not required).</li> </ul>
<b>Do Nothing</b>	<ul style="list-style-type: none"> <li>Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li> <li>Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New</li> </ul>

**Schedule “C” – Long-Form Certification Notice**

	GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.
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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes. It also provides information about the Settlement, which pertains to all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the

Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (**VINs**) provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
Key Rotation Recall	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14299	2014-246	

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit	14117		
	2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [\[settlement website\]](#) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [\[settlement website\]](#) or call [\[phone number established by Settlement Administrator\]](#), to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with

multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

**CONDEMN** Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

### C. THE TERMS OF THE SETTLEMENT AGREEMENT

#### 4. What am I giving up under the Settlement Agreement?

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “**Released Parties**”).

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [[settlement website](#)].

The Settlement Agreement describes the Released Claims in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## 5. What might I be receiving under the Settlement Agreement?

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### i. The Settlement Fund Amount

In exchange for Settlement Class Members' release of the Released Claims, there will be a CA\$12 million settlement fund established (the "**Settlement Fund Amount**"). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### ii. How will payments for eligible claims be allocated?

A "Net Settlement Amount" shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### iii. How do I get a payment from the Net Settlement Amount?

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [settlement website] or by mail to [Settlement Administrator's address]. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

## 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“**Co-Lead Counsel**”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP          Attention: Joan Sloan          jsloan@rochongenova.com          Tel: 1-866-881-2292 or local (416) 363-1867          121 Richmond Street West          Suite #900          Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.          Attention: Megan B. McPhee          mbm@complexlaw.ca          Tel: (416) 596-1414          1203-1200 Bay Street          Toronto, ON M5R 2A5</p>
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## 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs’ Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs’ Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor in Quebec (see below) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending an opt out form by mail, courier, or e-mail so that it is received on or before [date], 2024.

The opt out form must include:



- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and an attestation that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s); and
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s).

An opt-out form is available on the Settlement Website at [\[website link\]](#).

For **non-Quebec residents**, the opt out form should be sent to the Settlement Administrator through email to [\[settlement email address\]](#), or by mail or courier to [\[address of Settlement Claims Administrator\]](#).

**If you are a Quebec resident, your opt out form should be sent to the following address:**

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

## **9. What happens if I opt out/exclude myself from the Settlement Class?**

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## **F. OBJECTING TO THE SETTLEMENT**

### **10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?**

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada. The Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada.

To object, **non-Quebec residents** must deliver an objection form to the Settlement Administrator by email to [\[settlement administrator email\]](#) or by courier or mail to [\[settlement administrator address\]](#) so that it is received on or before [\[date\]](#), 2024.



**If you are a Quebec resident, your objection form should be sent by [date], 2024 to the following address:**

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

An objection form is available on the Settlement Website at [\[website link\]](#).

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

## G. INTERVENOR STATUS

### 11. Can I intervene as a party in the file?

Note that Quebec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Quebec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Quebec Settlement

Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.

## H. THE APPROVAL HEARINGS IN COURT

### 12. When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on [date], 2024 at [time] a.m. (Eastern Time); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Quebec H2Y 1B6 on [date], 2024 at [time] a.m. (Eastern Time).

The hearings may move to a different date, time, or location, or may be held virtually through videoconferencing. Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [settlement website] or call [settlement phone number established by Settlement Administrator] for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final and when the claims period will start. Please check the Settlement Website [settlement website link]. You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

### 13. Do I have to go to the hearings?

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to

attend the hearings at your own expense, or through videoconferencing if the Settlement Approval Hearings are heard virtually.

If you object by sending an objection form, you do not have to come to court to talk about it. So long as you sent your objection form on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. May I speak at the hearings?**

Yes. If you submitted a proper objection form, you or your lawyer may, at your own expense, come to the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

**I. IF YOU DO NOTHING**

**15. What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.

**J. GETTING MORE INFORMATION**

**16. How do I get more information about the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [website]. If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>			
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to [website], where you will find answers to common questions and other detailed information to help you.		
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call [phone number established by Settlement Administrator].		
<b>CONTACT CLASS COUNSEL</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> <p>Rochon Genova LLP</p> <p>Attention: Joan Sloan jsloan@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p> </td> <td style="width: 50%; padding: 5px;"> <p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw.ca Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p> </td> </tr> </table>	<p>Rochon Genova LLP</p> <p>Attention: Joan Sloan jsloan@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw.ca Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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**EXHIBIT D2 – REVISED LONG-FORM CERTIFICATION NOTICE [FR]**

## Annexe « C » - Avis de certification long

Cour supérieure de justice de l'Ontario / Cour supérieure du Québec

**AVIS DE CERTIFICATION/D'AUTORISATION D' ACTIONS COLLECTIVES ET  
D'AUDIENCES D'APPROBATION D'UN REGLEMENT**

**Si vous êtes l'actuel ou l'ancien propriétaire ou locataire d'un véhicule GM ayant fait l'objet de certains rappels en 2014, vous pouvez bénéficier de droits et d'options dans le cadre du Règlement proposé.**

*Il ne s'agit pas d'une sollicitation de la part d'un avocat.*

**Si vous êtes un Membre du Groupe du Règlement (tel que défini ci-dessous), vos droits peuvent être affectés, que vous agissiez ou non.**

**Veillez lire cet avis attentivement**

- Cet avis a pour but de vous informer que la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec (les « Cours ») ont certifié/autorisé, à des fins de règlement, des actions collectives visant à obtenir une indemnisation pour les pertes pécuniaires subies par les propriétaires ou locataires actuels et passés de certains véhicules GM rappelés en 2014 (le « Règlement »). Les rappels concernaient les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les représentants du Groupe du Règlement allèguent que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué ces véhicules. General Motors LLC (« Nouvelle GM ») et Compagnie General Motors du Canada (anciennement General Motors of Canada Limited) (« GM Canada ») nient ces allégations. Les représentants du Groupe du Règlement, Nouvelle GM et GM Canada ont accepté le Règlement afin d'éviter le risque et le coût d'un long procès.
- Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour dommages corporels (et réclamations connexes de la famille/des personnes à charge), mort injustifiée ou dommages matériels réels liées aux rappels de 2014. Ces réclamations de groupe ont fait l'objet d'un désistement dans les actions collectives, peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations individuelles ne seront pas renoncées ou quittancées par l'approbation du Règlement. À la suite du désistement intervenu dans les actions collectives, les délais de prescriptions (les délais légaux pour instituer une poursuite) ne sont plus suspendus et ont recommencé à courir. Après l'expiration de la période de prescription, votre droit de poursuite sera éteint. Demandez conseil à votre propre avocat pour les délais légaux applicables aux poursuites individuelles.

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- Sous réserve de l’approbation des Cours, le Règlement établira un fonds de Règlement de 12 millions de dollars canadiens (le « **Montant du Fonds de Règlement** ») pour payer les réclamations des membres admissibles du Groupe du Règlement qui soumettront une réclamation en ligne ou par courrier avant la date limite qui sera affichée sur le Site Web du Règlement. Les montants des paiements aux Membres éligibles du Groupe du Règlement varieront en fonction des rappels qui s’appliquent à leurs véhicules, du montant des frais administratifs, du nombre et du type de véhicules éligibles pour lesquels des réclamations sont déposées, et du nombre de membres éligibles du Groupe du Règlement qui déposent des réclamations.
- Les représentants du Groupe du Règlement, qui font partie du groupe de personnes poursuivant Nouvelle GM et GM Canada, déposeront des demandes auprès de la Cour supérieure de justice de l’Ontario et de la Cour supérieure du Québec afin d’obtenir des ordonnances approuvant le Règlement (les « **Ordonnances d’approbation** »). Les Audiences d’approbation du Règlement proposé se tiendront le [date], 2024 à [heure] a.m. (heure de l’Est) devant la Cour supérieure de justice de l’Ontario et le [date], 2024 à [heure] a.m. (heure de l’Est) devant la Cour supérieure du Québec. Ces audiences sont publiques. Vous pouvez vous présenter aux Audiences d’approbation du Règlement à vos frais, soit de vous-même, soit par l’intermédiaire d’un avocat que vous aurez mandaté, mais vous n’êtes pas obligé de le faire.

<b>VOS DROITS ET OPTIONS JURIDIQUES DANS LE CADRE DE CE RÈGLEMENT</b>	
<b>Déposer une réclamation</b>	<ul style="list-style-type: none"> <li>• <b><u>La procédure de demande d’indemnisation n’a pas encore commencé. Vous n’avez rien à faire si vous avez l’intention de formuler une réclamation si le Règlement est approuvé.</u></b></li> <li>• À ce stade, les Cours ont seulement certifié/autorisé les actions collectives pour fins de règlement et l’approbation du règlement est pendante. Si le Règlement est approuvé par les tribunaux lors des Audiences d’approbation du Règlement, un Membre du Groupe du Règlement devra remplir et soumettre un formulaire de réclamation valide et dans les délais afin de recevoir un paiement du Montant du Fonds de Règlement.</li> <li>• Les Membres du Groupe du Règlement pourront remplir leur formulaire de demande de paiement en ligne ou par courrier.</li> <li>• Les procédures relatives à l’administration des réclamations et à l’allocation du Montant du Fonds de Règlement aux Membres du Groupe du Règlement sont décrites dans l’Entente de Règlement, qui peut être consulté sur le Site Web du Règlement.</li> <li>• De plus amples informations sur la manière de déposer une réclamation si le Règlement est approuvé sont disponibles sur [site web du Règlement].</li> </ul>

## Annexe « C » - Avis de certification long

	<ul style="list-style-type: none"> <li>• Vous pouvez enregistrer votre adresse électronique ou postale sur le Site Web du Règlement pour vous assurer de recevoir l’avis d’approbation du tribunal et la date limite de dépôt des demandes.</li> </ul>
<p><b>S’exclure ou « Opt Out » (se retirer)</b></p>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui s’excluent du Règlement ne recevront aucun bénéfice du Règlement.</li> <li>• Seuls les Membres du Groupe du Règlement qui s’excluent du Règlement conserveront le droit de poursuivre Nouvelle GM et GM Canada et certaines autres parties quittancées pour des réclamations de pertes pécuniaires alléguées dans les Actions à leurs propres frais. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.</li> <li>• Votre demande d’exclusion doit être reçue avant le [date] 2024. Les personnes qui ne résident pas au Québec peuvent envoyer leur demande d’exclusion à l’Administrateur du Règlement. Les résidents du Québec devraient envoyer leur demande d’exclusion à l’adresse suivante : <p style="text-align: center;">Greffé de la Cour Supérieure Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors of Canada et al.</i> 500-06-000687-141   500-06-000729-158 1 rue Notre Dame Est, bureau 1.120 Montréal, Québec, H2Y 1B5</p> </li> <li>• De plus amples informations sur la manière de s’exclure du Règlement peuvent être trouvées dans le paragraphe 8 ci-dessous et sur [site web du Règlement]. Un formulaire d’exclusion est disponible sur ce site internet.</li> </ul>
<p><b>S’objecter</b></p>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui ne s’excluent pas peuvent s’opposer au Règlement et expliquer par écrit pourquoi ils ne sont pas d’accord avec le Règlement ou une partie de celui-ci. Ces objections doivent être reçues avant le [date] 2024. Les personnes qui ne résident pas au Québec peuvent envoyer leur objection à l’Administrateur du Règlement. Les résidents du Québec devraient envoyer leur objection à l’adresse suivante : <p style="text-align: center;">Greffé de la Cour Supérieure Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors of Canada et al.</i> 500-06-000687-141   500-06-000729-158 1 rue Notre Dame Est, bureau 1.120 Montréal, Québec, H2Y 1B5</p> </li> <li>• Les objections seront transmises aux tribunaux et examinées lors des Audiences d’approbation du Règlement. Les Membres du Groupe du</li> </ul>



## Annexe « C » - Avis de certification long

	<p>Règlement seront liés par tout Règlement approuvé par les Cours, même s'ils s'y sont opposés.</p> <ul style="list-style-type: none"> <li>• Pour plus d'informations sur les modalités d'opposition, voir la section 10 ci-dessous et à [site web du Règlement]. Un formulaire d'objection est disponible sur ce site internet.</li> </ul>
<b>Se rendre à l'audition</b>	<ul style="list-style-type: none"> <li>• Afin de déterminer s'il convient d'approuver l'Entente de Règlement, des Audiences d'approbation du Règlement se tiendront le [date], 2024 à [heure] a.m. (heure de l'Est) devant la Cour supérieure de justice de l'Ontario et le [date], 2024 à [heure] a.m. (heure de l'Est) devant la Cour supérieure de justice du Québec.</li> <li>• Les Cours examineront les objections au Règlement et les Membres du Groupe du Règlement qui s'y opposent peuvent demander à s'exprimer lors des audiences.</li> </ul>
<b>Ne rien faire</b>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui ne font rien, y compris qui ne déposent pas de réclamation lorsque le processus de réclamation commencera, ne recevront pas les avantages du Règlement, s'ils deviennent disponibles.</li> <li>• Les Membres du Groupe du Règlement qui ne font rien (et ne se retirent pas du Règlement, comme décrit ci-dessus) renonceront à leur droit de poursuivre Nouvelle GM, GM Canada et certaines autres parties quittancées au sujet des réclamations de pertes pécuniaires alléguées dans les Actions.</li> </ul>

## Annexe « C » - Avis de certification long

## CONTENU DU PRÉSENT AVIS

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## A. INFORMATIONS DE BASE

### 1. Qu'est-ce que cet avis et pourquoi devrais-je le lire ?

Cet avis vous informe que la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec ont respectivement certifié et autorisé des actions collectives pour fins de règlement. L'avis fournit aussi des informations sur le Règlement, qui concerne toutes les réclamations de pertes pécuniaires liées aux rappels de 2014 de certains véhicules GM, alléguées dans quinze (15) actions en justice intentées au nom de personnes ayant possédé ou loué les véhicules GM rappelés. Ces actions collectives pour pertes pécuniaires sont déposées pour le compte des propriétaires et des locataires actuels et anciens de véhicules GM soumis à des rappels concernant les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur la Camaro et/ou la direction assistée électrique avec les numéros de rappel de Transport Canada indiqués ci-dessous.

L'une des quinze actions est *Edward Oberski et al. v. General Motors LLC et al.* déposée devant la Cour supérieure de justice de l'Ontario (« **Cour de l'Ontario** ») portant le numéro de dossier CV-14-50203-CP (« **Action de l'Ontario** »), et deux des actions sont déposées devant la Cour supérieure du Québec (« **Cour du Québec** », et ensemble avec la Cour de l'Ontario, les « **Cours** »), *Michael Gagnon v. General Motors du Canada et al.*, dossier n° 500-06-000687-141 et *Michael Gagnon c. General Motors du Canada et autres*, dossier n° 500-000729-158 (les « **Actions du Québec** ») (collectivement, les « **Actions** »).

Les douze autres actions en justice faisant l'objet d'un Règlement (les « **Actions connexes** ») sont les suivantes : (i) *George Shewchuck c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1396/14, *Bradie Herbel c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 480/14, *Dale Hall c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1273/15, et *Rene Fradette c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1181/15, chacun devant la Cour du Banc de la Reine de la Saskatchewan, (ii) *Garth Coen c. General Motors of Canada Limited et autres*, dossier no 14-1262, Cour suprême de la Colombie-Britannique, (iii) *Holly Standingready c. General Motors of Canada Limited*, dossier no 1403-04964, Cour du Banc de la Reine de l'Alberta, (iv) *Catherine Seeley c. General Motors of Canada Limited et autres*, dossier no C114-88682, Cour du Banc de la Reine du Manitoba, (v) *Chris Spicer c. General Motors du Canada Limitée et autres*, dossier no MC-176-14, Cour du Banc de la Reine du Nouveau-Brunswick, (vi) *Sue Brown et autres c. General Motors du Canada Limitée et autres*, dossier no 427140 et *Alex Mulford c. General Motors du Canada Limitée et autres*, dossier no 426204, tous deux devant la Cour suprême de la Nouvelle-Écosse, (vii) *Meghan Dunphy c. General Motors of Canada Ltd*, dossier no 201401G2284CP, Cour suprême de Terre-Neuve, et (viii) *Academie Ste Cecile International School et. al. c. General Motors of Canada Limited*, dossier no CV-14-20629-CP, Cour supérieure de l'Ontario.

Cet avis explique les conditions du Règlement et vos droits légaux.

### 2. Sur quoi porte le Règlement ?

Les Représentants du Groupe du Règlement dans les Actions et les représentants dans les Actions connexes ont déposé des actions collectives contre Nouvelle GM et GM Canada, alléguant que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué des véhicules GM qui faisaient

l'objet de certains rappels en 2014. Nouvelle GM et GM Canada nient ces allégations. Les Représentants du Groupe du Règlement, Nouvelle GM et GM Canada (ensemble les « **Parties** ») ont négocié le Règlement pour résoudre ces réclamations de pertes pécuniaires, ainsi que toutes les réclamations de pertes pécuniaires pour ces rappels qui ont été ou peuvent être revendiquées par le Groupe du Règlement contre Nouvelle GM et GM Canada et certaines autres parties quittancées. Le Règlement évite le risque et le coût d'un procès et fournit des avantages aux Membres du Groupe du Règlement (définis ci-dessous). Les Représentants du Groupe du Règlement dans les Actions, les représentants dans les Actions connexes et leurs avocats pensent que le Règlement est dans le meilleur intérêt de tous les membres du Groupe du Règlement et qu'il est juste, raisonnable et adéquat.

### B. QUI EST INCLUS DANS LE RÈGLEMENT ?

Pour être visé par le Règlement proposé, vous devez être Membre du Groupe du Règlement.

#### 3. Comment puis-je savoir si je fais partie du Règlement? Quelle est la définition des membres du Groupe du Règlement?

Un **Membre du Groupe du Règlement** est une personne faisant partie du Groupe du Règlement. Le **Groupe du Règlement**, qui a été certifié ou autorisé par la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec pour fins de Règlement uniquement, est défini comme suit :

Toutes les Personnes résidant au Canada, à l'exception des Personnes exclues, qui, à tout moment avant ou à la Date de publication du rappel pour le (ou les) Rappel(s) applicable(s) au(x) Véhicule(s) visé(s), ont possédé, acheté et/ou loué un Véhicule visé dans l'une ou l'autre des provinces/territoires du Canada.

« **Véhicules visés** » désigne les véhicules à moteur GM visés par les **Rappels**, tels que définis spécifiquement par les numéros d'identification des véhicules (**NIV**) fournis par GM à l'administrateur du Règlement.

Les « **Rappels** » et la « **Date de publications des rappels** » sont les suivants :

	Marque, modèle et année du modèle*	Numéro de rappel GM	Numéro de rappel de Transport Canada	Date de publication du rappel
<b>Rappel des interrupteurs à clé de contact Delta</b>	Chevrolet Cobalt 2005-2010 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	30 septembre 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit Pontiac Solstice 2006-2010	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	

<b>Rappel de la rotation des touches</b>	Buick Allure 2005-2009 Buick Lucerne 2006-2011 Buick Regal 2004 2003-2014 Cadillac CTS 2000-2005 Cadillac Deville Cadillac DTS 2006-2011 2004-2006 Cadillac SRX	14172	2014-273	30 novembre 2014
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue	14497		
	1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14299	2014-246	
		14350	2014-284	
<b>Rappel Camaro clé-genou</b>	Chevrolet Camaro 2010-2014	14294	2014-243	31 octobre 2014
<b>Rappel de la direction assistée électrique</b>	Chevrolet Cobalt 2005-2010 Chevrolet HHR 2009-2010 2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14115	2014-104	28 février 2015
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit	14116		
	2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6	14117		
	2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Seuls les véhicules dont le numéro d'identification fait l'objet d'un ou de plusieurs des Rappels susmentionnés sont inclus dans le Règlement en tant que Véhicules visés. Consultez [le [site web du Règlement](#)] pour savoir si votre véhicule remplit les conditions requises.

La Date de publication du rappel est une date précise qui correspond à la fin du mois suivant le mois de la dernière notification initiale de GM aux propriétaires/locataires de chaque Rappel.

Rendez-vous sur [le [site web du Règlement](#)] ou appelez [le [numéro de téléphone établi par l'administrateur du Règlement](#)] pour savoir si votre véhicule GM est couvert par le Règlement. Préparez le numéro d'identification (NIV) de votre véhicule.

Le Groupe du Règlement est composé des quatre sous-groupes ci-dessous (les « **Sous-groupes** ») :

- Sous-groupe 1 : Sous-Groupe des interrupteurs à clé de contact Delta, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par les rappels de Transports Canada nos 2014-038, 2014-060 et 2014-101.
- Sous-groupe 2 : Le Sous-groupe rotation des clés, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par le rappel de Transports Canada n° 2014-273, 2014-246, 2014-284.
- Sous-groupe 3 : Le Sous-groupe Camaro clé-genou, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un véhicule visé par le rappel de Transports Canada n° 2014-243.

- Sous-groupe 4 : Le Sous-groupe direction assistée électrique, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par le rappel no 2014-104 de Transports Canada.

Les Membres du Groupe du Règlement possédant un Véhicule visé couvert à la fois par le Rappel des interrupteurs à clé de contact Delta et le Rappel de la direction assistée électrique seront membres à la fois du Sous-Groupe des interrupteurs à clé de contact Delta et du Sous-groupe direction assistée électrique et seront éligibles pour recevoir les paiements de Règlement alloués aux deux Sous-groupes. Les Membres du Groupe du Règlement possédant plusieurs véhicules visés seront membres des Sous-groupes applicables à chacun de leurs Véhicules visés respectifs.

Le droit québécois requiert que les informations suivantes soient données aux Membres du Groupe du Règlement du Québec. Pour les Actions du Québec, la question principale de fait et de droit autorisé par les Cours pour fins de règlement est :

Les intimées sont-elles tenues de verser des dommages-intérêts compensatoires aux Membres du Groupe en raison du défaut ?

Pour les Actions du Québec, les conclusions principales autorisées par les Cours pour fins de règlement sont :

**CONDAMNER** les Défenderesses à verser aux Membres du Groupe des dommages-intérêts équivalant au montant de la perte de (...) de la valeur du Véhicule visé (...);

**CONDAMNER** les Défenderesses à rembourser aux Membres du Groupe toute dépense (...) liée à la défectuosité ou à sa réparation;

**CONDAMNER** les Défenderesses à verser des dommages-intérêts compensatoires aux Membres du Groupe pour la perte d'usage et de jouissance des Véhicules visés, les ennuis, les inconvénients et la perte de temps;

## C. LES TERMES DE L'ENTENTE DE REGLEMENT

### 4. À quoi est-ce que je renonce dans le cadre de l'Entente de Règlement ?

Dans le cadre du Règlement proposé, chaque membre du Groupe du Règlement sera réputé avoir renoncé, libéré et promis de ne pas intenter une action pour toute réclamation de perte pécuniaire que le Membre du Groupe du Règlement a ou pourrait avoir à l'avenir, directement ou indirectement, contre Nouvelle GM, GM Canada et certaines autres parties quittancées (les « **Parties quittancées** »).

Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour des dommages corporels (et réclamations connexes de la famille/des personnes à charge), une mort injustifiée ou des dommages matériels réels liées aux rappels de 2014. Ces réclamations de *groupe* ont fait l'objet d'un désistement des actions collectives et peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations *individuelles* ne seront pas renoncées ou quittancées par l'approbation du Règlement.

À la suite du désistement intervenu dans les actions collectives, les délais de prescriptions (les délais légaux pour instituer une poursuite) ne sont plus suspendus et ont recommencé à courir. Après l'expiration de la période de prescription, votre droit de poursuite sera éteint. Demandez conseil à votre propre avocat pour les délais légaux applicables aux poursuites individuelles.

Si approuvé par les tribunaux, le Règlement interdira aux Membres du Groupe du Règlement d'intenter ou de participer à tout autre action ou réclamation contre les Parties quittancées en rapport avec l'objet des Actions, des Actions connexes et des Rappels, y compris, mais sans s'y limiter, ceux relatifs à la conception, à la fabrication, à la publicité, aux essais, à la fonctionnalité, à l'entretien, à la vente, à la location ou à la revente des Véhicules visés (les « **Réclamations quittancées** »). Les Réclamations quittancées sont décrites plus en détail dans l'Entente de Règlement, qui est publié sur [site web du Règlement]. L'Entente de Règlement décrit les Réclamations quittancées dans un langage juridique. Consultez votre propre avocat si vous avez des questions sur les Réclamations quittancées ou sur leur sens.

## 5. Que pourrais-je recevoir dans le cadre de l'Entente de Règlement ?

L'Entente de Règlement permet aux Membres du Groupe du Règlement de soumettre une réclamation à l'Administrateur du Règlement et, s'ils sont admissibles, de recevoir un paiement du Montant du Fonds de Règlement, tel que décrit ci-dessous.

### i. Le Montant du Fonds de Règlement

En échange de la renonciation des Membres du Groupe du Règlement aux Réclamations quittancées, un fonds de Règlement de 12 millions de dollars canadiens sera établi (le « **Montant du Fonds de Règlement** »). Les paiements de Règlement aux Membres du Groupe du Règlement éligibles ne seront effectués que si (i) les Ordonnances d'approbation de la Cour de l'Ontario et de la Cour du Québec et (ii) les ordonnances rejetant les Actions connexes avec préjudice et sans frais deviennent définitives, entre autres ordonnances, et après déduction des Frais administratifs (tels que ceux liés à l'administration des réclamations).

### ii. Comment les paiements pour les réclamations éligibles seront-elles allouées ?

Le « **Montant net du Règlement** » sera déterminé en déduisant les Frais administratifs, les taxes et tout paiement d'honoraria du Montant du Fonds de Règlement. L'intégralité du Montant net du Règlement sera distribuée aux Membres du Groupe du Règlement dont les réclamations auront été jugées éligibles par l'Administrateur du Règlement. Les Membres du Sous-groupe des interrupteurs à clé de contact Delta recevront le double (2x) du montant payé aux membres des Sous-groupes Camaro clé-genou et direction assistée électrique, et les membres du Sous-groupe rotation des clés recevront une fois et demie (1,5x) le montant payé aux membres des Sous-groupes Camaro clé-genou et direction assistée électrique. Un membre éligible du Groupe du Règlement possédant un véhicule sujet au Rappel des interrupteurs à clé de contact Delta et au rappel de la direction assistée électrique recevra à la fois les paiements de Règlement du Sous-Groupe des interrupteurs à clé de contact Delta et du Sous-Groupe direction assistée électrique. Le processus de calcul du montant net du Règlement est décrit dans l'Entente de Règlement.

### iii. Comment puis-je obtenir un paiement à partir du Montant net du Règlement ?



**Le processus de réclamation n'a pas encore commencé et ne commencera qu'à partir du moment où les Cours auront approuvé le Règlement.** Si le Règlement est approuvé par les tribunaux lors des Audiences d'approbation du Règlement, vous pourrez déposer un Formulaire de réclamation en ligne ou par courrier, le cachet de la poste faisant foi, avant la date limite affichée sur le Site Web du Règlement, afin de recevoir un paiement. Les réclamations peuvent être soumises en ligne sur [site web du Règlement] ou par courrier à [adresse de l'administrateur du Règlement]. Pour certains Membres du Groupe du Règlement, un Formulaire de réclamation complet et des documents supplémentaires peuvent être nécessaires pour établir l'éligibilité. Les instructions figurent sur le Formulaire de réclamation et sur le Site Web du Règlement. Vous pouvez enregistrer votre adresse électronique ou postale sur le Site Web du Règlement afin de vous assurer de recevoir l'avis d'approbation du tribunal et la date limite de faire une réclamation.

Si vous ne soumettez pas de Formulaire de réclamation dans les délais impartis, vous ne recevrez pas de paiement. L'envoi tardif d'un Formulaire de réclamation équivaudra à ne rien faire.

#### D. REPRÉSENTATION JURIDIQUE

##### 6. Ai-je droit à un avocat dans le cadre de ce Règlement ?

Les avocats qui représentent les Représentants du Groupe du Règlement (« **Co-Avocats Principaux** »), mentionnés ci-dessous, ont négocié l'Entente de Règlement avec Nouvelle GM et GM Canada. Les Co-Avocats Principaux déposeront les demandes auprès de la Cour de l'Ontario et de la Cour du Québec afin d'obtenir l'approbation du Règlement. Les services fournis par les Co-Avocats Principaux ne vous seront pas facturés. Si vous souhaitez être représenté par votre propre avocat, vous pouvez en mandater un à vos frais.

Si vous souhaitez contacter les Co-Avocats Principaux, vous pouvez le faire à l'adresse suivante :

<p>Rochon Genova LLP</p> <p>À l'attention de Joan Sloan jsloan@rochongenova.com Tél. : 1-866-881-2292 ou local (416) 363-1867</p> <p>121 Richmond Street Ouest Bureau #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>À l'attention de Megan B. McPhee mbm@complexlaw.ca Tél. : (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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##### 7. Comment les avocats du Groupe seront-ils payés ?

Les Co-Avocats Principaux demanderont à la Cour de l'Ontario et à la Cour du Québec, au nom de tous les avocats des Groupe qui représentent une personne réclamant dans le cadre des Actions et/ou des Actions connexes, l'approbation d'un montant total de 4 397 500 \$ CA à titre de paiement par les Défenderesses pour les honoraires des avocats des représentants, les dépenses, les coûts,



les débours et les taxes connexes (le « **Montant maximum des honoraires des Avocats du Groupe** »). Cette demande d'honoraires devra être approuvée par les tribunaux.

Les tribunaux peuvent attribuer un montant inférieur à celui demandé par les Co-Avocats Principaux. Toutefois, les Défenderesses ne devront en aucun cas payer un montant supérieur au Montant maximum des honoraires des Avocats du Groupe et, si les tribunaux attribuent un montant inférieur au Montant maximum des honoraires des Avocats du Groupe, les Défenderesses ne devront payer que le montant le moins élevé.

Ce montant attribué par les tribunaux pour les honoraires des avocats des représentants, les dépenses, les coûts, les débours et les taxes associées ne sera pas prélevé sur le Montant du Fonds de Règlement décrit ci-dessus.

Aucun membre autre que les Représentants du Groupe de Règlement ou un intervenant au Québec (voir ci-dessous) ne peut être tenu de payer les frais de justice associés aux actions collectives.

## E. S'EXCLURE DU RÈGLEMENT

### 8. Comment puis-je me retirer ou m'exclure du Règlement ?

Si vous ne souhaitez pas être Membre du Groupe du Règlement et que vous ne souhaitez pas participer au Règlement, vous pouvez vous exclure du Groupe du Règlement ou vous en retirer en envoyant un formulaire d'exclusion du Règlement par la poste, par messengerie ou par e-mail, de sorte qu'il soit reçu au plus tard le [date], 2024.

Le formulaire d'exclusion doit inclure :

- a. Votre nom complet, votre adresse postale, votre numéro de téléphone et votre adresse électronique ;
- b. La preuve que vous êtes un Membre du Groupe du Règlement, y compris la preuve des dates auxquelles vous avez possédé ou loué le(s) Véhicule(s) visé(s), et une déclaration selon laquelle vous n'êtes pas une Personne exclue ;
- c. La marque, le modèle, l'année du modèle et le numéro d'identification du Véhicule visé ; et

Votre (vos) adresse(s) au moment où vous possédiez ou louiez le(s) Véhicule(s) visé(s).

Un formulaire d'exclusion est disponible sur le Site Web du Règlement à [lien vers le site].

Pour **les personnes qui ne résident pas au Québec**, le formulaire d'exclusion devrait être envoyé à l'Administrateur du Règlement par courriel à l'adresse [adresse électronique du Règlement], ou par courrier ou service de messengerie à l'adresse [adresse de l'administrateur des demandes de Règlement].

**Si vous êtes un résident du Québec, votre avis d'exclusion devrait être envoyé à l'adresse suivante :**

Greffe de la Cour Supérieure  
Palais de justice de Montréal  
Objet : *Michael Gagnon c. General Motors of Canada et al.*

500-06-000687-141 | 500-06-000729-158  
1 rue Notre Dame Est, bureau 1.120  
Montréal, Québec, H2Y 1B5

## 9. Que se passe-t-il si je m'exclus du Groupe du Règlement ?

Si vous vous excluez du Groupe du Règlement, vous ne recevrez pas d'argent ou d'avantages de ce Règlement. Toutefois, en vous excluant, vous conserverez votre droit individuel de poursuivre les Parties quittancées pour les pertes pécuniaires alléguées dans les Actions et les Actions connexes, à vos propres frais. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.

## F. OBJECTION AU RÈGLEMENT

### 10. Comment puis-je dire à la Cour supérieure de justice de l'Ontario ou à la Cour supérieure du Québec que je ne suis pas d'accord avec le Règlement ?

Si vous êtes membre du Groupe du Règlement et si vous ne vous excluez pas du Groupe du Règlement, vous pouvez vous opposer au Règlement proposé si vous n'êtes pas d'accord avec le Règlement ou une partie de celui-ci. Vous pouvez donner les raisons pour lesquelles vous pensez que les tribunaux ne devraient pas approuver le Règlement ou une partie de celui-ci, et le tribunal approprié examinera votre objection. Le tribunal de l'Ontario examinera les objections de tous les Membres Groupe du Règlement autres que ceux dont les Véhicules visés ont été remis à un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada. Le tribunal du Québec examinera les objections des Membres du Groupe du Règlement dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada.

Pour s'opposer, **les personnes qui ne résident pas au Québec** doivent envoyer leur formulaire d'objection à l'Administrateur du Règlement par courriel à [courriel de l'administrateur du Règlement] ou par courrier ou messagerie à [adresse de l'administrateur du Règlement] de manière à ce qu'elle soit reçue au plus tard le [date] 2024.

**Si vous êtes un résident du Québec, votre formulaire d'objection devrait être envoyée avant le [date] 2024 à l'adresse suivante :**

Greffe de la Cour Supérieure  
Palais de justice de Montréal  
Objet : *Michael Gagnon c. General Motors of Canada et al.*  
500-06-000687-141 | 500-06-000729-158  
1 rue Notre Dame Est, bureau 1.120  
Montréal, Québec, H2Y 1B5

Les objections reçues après cette date ne seront pas prises en compte.

Votre formulaire d'objection signé doit inclure :

- a. Votre nom complet, votre adresse postale, votre numéro de téléphone et votre adresse électronique ;
- b. La preuve que vous êtes un membre du Groupe du Règlement, y compris la preuve des dates auxquelles vous avez possédé ou loué le(s) Véhicule(s) visé(s), et une déclaration selon laquelle vous n'êtes pas une Personne exclue ;
- c. La marque, le modèle, l'année du modèle et le numéro d'identification du Véhicule visé ;
- d. Une déclaration de la nature et de la raison de l'objection au Règlement, y compris tous les motifs factuels et juridiques de l'objection, et
- e. Si vous avez l'intention de comparaître en personne/par vidéoconférence, le cas échéant, ou par l'intermédiaire d'un avocat lors de l'audience d'approbation du Règlement, et si vous comparez par l'intermédiaire d'un avocat, le nom, l'adresse, le numéro de téléphone et l'adresse électronique de l'avocat.

Un formulaire d'objection est disponible sur le Site Web du Règlement à [\[lien vers le site\]](#).

Si vous ne déclarez pas votre intention de comparaître dans les délais et spécifications applicables, ou si vous ne soumettez pas d'objection dans les délais et spécifications applicables, vous renoncerez à toute objection et pourrez être empêché de prendre la parole lors des audiences d'approbation du Règlement.

Notez que vous n'avez pas besoin de demander le statut d'intervenant pour vous objecter au Règlement et présenter vos observations devant les Cours lors des Audiences d'approbation.

## G. STATUT D'INTERVENANT

### 11. Puis-je intervenir à titre de partie dans le dossier?

Notez que les Membres du Groupe de Règlement du Québec peuvent demander à la Cour supérieure du Québec la permission **d'intervenir** si l'intervention est considérée comme utile au groupe. Un Membre du Groupe de Règlement du Québec qui intervient peut être tenu de se soumettre à un interrogatoire préalable au procès à la demande des Défenderesses. Un Membre du Groupe de Règlement qui n'intervient pas ne peut être soumis à un interrogatoire préalable, à moins que la Cour ne considère que cela serait utile pour déterminer les questions de droit ou de fait à traiter collectivement. Il n'est pas nécessaire d'intervenir pour s'opposer à l'Entente de Règlement (voir ci-dessus) ou pour assister aux Audiences d'approbation. Les Membres du Groupe de Règlement du Québec qui choisissent d'intervenir et qui souhaitent être représentés par un avocat devront mandater leur propre avocat. Les Membres du Groupe de Règlement du Québec sont les Membres du Groupe de Règlement dont les véhicules concernés sont identifiés, sur la base d'informations raisonnablement disponibles de GM, comme ayant été vendus au détail pour la première fois au Québec.

## H. LES AUDIENCES D'APPROBATION DEVANT LE TRIBUNAL

### 12. Quand et où les Cours décideront-elles d'approuver ou non le Règlement ?

La Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec tiendront des Audiences d'approbation du Règlement pour décider d'approuver ou non l'Entente de Règlement proposée. Les Audiences d'approbation du Règlement se tiendront comme suit :

- La Cour supérieure de justice de l'Ontario tiendra une audience d'approbation du Règlement au 130 Queen Street West, Toronto, ON M5H 2N5 le [date], 2024 à [heure] a.m. (heure de l'Est) ; et
- La Cour supérieure du Québec tiendra une audience d'approbation du Règlement au Palais de justice de Montréal, 1 rue Notre-Dame Est, Montréal, Québec H2Y 1B6 le [date], 2024 à [heure] a.m. (heure de l'Est).

Les audiences peuvent être déplacées à une date, une heure ou un lieu différent, ou peuvent être tenues virtuellement par vidéoconférence. Veuillez noter que la date ou le lieu de l'une ou l'autre des audiences peut être modifié sans préavis autre qu'une mise à jour sur le Site Web du Règlement. Les membres du Groupe du Règlement sont encouragés à consulter le Site Web du Règlement à l'adresse [Site Web du Règlement] ou à appeler [numéro de téléphone du Règlement établi par l'administrateur du Règlement] pour obtenir des plus amples informations.

Lors de ces audiences, les Cours détermineront si le Règlement est équitable, raisonnable et dans le meilleur intérêt du Groupe du Règlement. Les Co-Avocats Principaux répondront à toutes les questions que les Cours pourraient avoir sur le Règlement. S'il y a des objections, les Cours les prendront en considération lors des audiences. Après les audiences, la Cour de l'Ontario décidera d'approuver ou non le Règlement en ce qui concerne tous les Membres du Groupe du Règlement autres que ceux dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada, et la Cour du Québec examinera les objections des Membres du Groupe du Règlement dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada. Des appels peuvent être interjetés après la décision d'une des Cours. Il n'y a pas de calendrier établi pour la décision d'approbation finale de la Cour, ni pour les appels qui pourraient être interjetés suite à cette décision, il est donc impossible de savoir exactement si et quand le Règlement deviendra Final et quand la période de réclamation débutera. Veuillez consulter le site web du Règlement [lien vers le site web du Règlement]. Vous pouvez enregistrer votre adresse électronique et votre adresse postale sur le site Web du Règlement afin de vous assurer de recevoir un avis d'approbation de la Cour et de la date limite de réclamation.

### 13. Dois-je me rendre aux auditions ?

Non. Les Co-Avocats Principaux comparaitront aux deux Audiences d'approbation du Règlement à l'appui du Règlement et répondront à toutes les questions posées par les tribunaux. Cependant, vous pouvez assister aux audiences à vos propres frais ou par vidéoconférence si les Audiences d'approbation du Règlement sont virtuelles.

Si vous vous objectez en envoyant un formulaire d'objection, vous n'avez pas besoin de venir au tribunal pour en parler. Tant que vous avez envoyé votre formulaire d'objection dans les délais et que vous avez respecté les autres conditions de validité d'une objection énoncées ci-dessus, le tribunal compétent l'examinera. Vous pouvez y assister ou payer votre propre avocat pour qu'il y assiste, mais ce n'est pas obligatoire.

#### **14. Puis-je prendre la parole lors des auditions ?**

Oui. Si vous avez soumis un formulaire d'objection en bonne et due, vous ou votre avocat pouvez, à vos propres frais, vous présenter à l'audience d'approbation du Règlement et y prendre la parole. Si vous avez possédé ou loué un véhicule sujet qui a été identifié, sur la base d'informations raisonnablement disponibles, comme ayant été vendu au détail pour la première fois au Québec et que vous souhaitez vous adresser à la Cour concernant votre objection, vous assisterez à l'audience devant la Cour du Québec, et si vous avez possédé ou loué un véhicule sujet qui a été identifié, sur la base d'informations raisonnablement disponibles, comme ayant été vendu au détail pour la première fois en dehors du Québec et que vous souhaitez vous adresser à la Cour concernant votre objection, vous assisterez à l'audience devant la Cour de l'Ontario. Il n'est pas nécessaire d'obtenir le statut d'intervenant pour s'opposer à l'Entente de Règlement et présenter vos observations lors des Audiences d'approbation.

### **I. SI VOUS NE FAITES RIEN**

#### **15. Que se passe-t-il si je ne fais rien du tout ?**

Vous avez le droit de ne rien faire. Si vous ne faites rien, y compris si vous ne soumettez pas de réclamation lorsque le processus de réclamation commence, vous ne recevrez aucun bénéfice du Règlement. En outre, vous ne pourrez plus faire partie de l'action collective ou de toute autre action en justice à l'encontre des Parties quittancées concernant les Réclamations quittancées dans le cadre de ce Règlement. Plus précisément, une fois que l'approbation des deux tribunaux sera Finale, le Règlement vous interdira de poursuivre ou de faire partie de tout autre procès ou réclamation à l'encontre des parties quittancées en rapport avec l'objet des Actions, des Actions connexes et des Rappels, y compris, mais sans s'y limiter, ceux relatifs à la conception, à la fabrication, à la publicité, aux essais, à la fonctionnalité, à l'entretien, à la vente, à la location ou à la revente des véhicules en question. Toutefois, les Membres du Groupe du Règlement ne renonceront pas à toute réclamation individuelle qu'ils pourraient avoir à l'encontre des Parties quittancées en cas de préjudice corporel, de mort injustifiée ou de dommages matériels réels résultant d'un accident impliquant un Véhicule visé. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.

### **J. OBTENIR PLUS D'INFORMATIONS**

#### **16. Comment puis-je obtenir plus d'informations sur le Règlement ?**

Cet Avis résume le Règlement proposé. Pour connaître les termes et conditions précis du Règlement, veuillez consulter l'Entente de Règlement, les Ordonnances d'approbation et toutes les ordonnances supplémentaires rendues par les tribunaux concernant le Règlement, qui sont toutes disponibles (ou seront disponibles une fois les ordonnances rendues par les tribunaux) sur

le Site Web du Règlement à l'adresse [site Web]. En cas de conflit entre le présent avis et l'Entente de Règlement, l'Entente de Règlement prévaut.

<b>VOUS POUVEZ OBTENIR DES INFORMATIONS SUPPLÉMENTAIRES EN</b>		
<b>VISITANT LE SITE WEB DU RÈGLEMENT</b>	Veuillez vous rendre sur [site web], où vous trouverez des réponses aux questions les plus courantes et d'autres informations détaillées pour vous aider.	
<b>APPELANT LE NUMÉRO DE TÉLÉPHONE DU RÈGLEMENT</b>	Appelez le [numéro de téléphone établi par l'administrateur du Règlement].	
<b>CONTACTANT L'AVOCAT DU GROUPE</b>	<p>Rochon Genova LLP</p> <p>À l'attention de Joan Sloan jsloan@rochongenova.com Tél. : 1-866-881-2292 ou local (416) 363-1867</p> <p>121 Richmond Street Ouest Bureau #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>À l'attention de Megan B. McPhee mbm@complexlaw.ca Tél. : (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>



**EXHIBIT D3 - REVISED LONG-FORM CERTIFICATION NOTICE [REDLINE]**



~~Schedule “C” – Long-Form Certification Notice~~

Ontario Superior Court of Justice / Superior Court of Québec

NOTICE OF ~~PROPOSED~~ CLASS ACTION CERTIFICATION/AUTHORIZATIONANDSETTLEMENT APPROVAL HEARING

~~If You Are a Current or Former Owner or Lessee of a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.~~

If You Are a Current or Former Owner or Lessee of a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below), your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you ~~of that~~ the ~~proposed settlement (the “Settlement”)~~ of Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by ~~persons who owned~~ current and former owners or ~~leased~~ lessees of certain GM vehicles that were recalled in 2014 (the “Settlement”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.

## Schedule “C” – Long-Form Certification Notice

- ~~As part of the~~The proposed Settlement, ~~all class~~ does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage ~~arising from an accident involving a Subject Vehicle relating to the 2014 recalls. These class claims~~ have been discontinued or removed. The Settlement will not include the release of from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such individual claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. Participating in this Settlement will not restrict you from bringing an individual claim for damages related to personal injury (and related family/dependent claims), wrongful death or actual physical property damage will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.
- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec ~~(the “Courts”)~~ seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and for [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec. These hearings are public. You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

#### File a Claim

- The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.**
- At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member ~~must~~will have to complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.

Schedule “C” – Long-Form Certification Notice

	<ul style="list-style-type: none"> <li>• Settlement Class Members <del>may</del><u>will be able to</u> complete <del>at</del><u>their</u> claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at <u>[settlement website]</u>.</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<p><b>Exclude Yourself or “Opt Out”</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at their own expense. Get advice from your <u>own</u> lawyer about <u>legal</u> deadlines for individual lawsuits.</li> <li>• Your request to opt out must be received by <u>[date]</u>, 2024. Non-Quebec residents may send their opt out request to the Settlement Administrator. Quebec residents should send their opt out request to the following address:  <p style="text-align: center;">Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</p> </li> <li>• More information about how to opt out of the Settlement can be found in paragraph 8 below and at <u>[settlement website]</u>. <u>An opt-out form is available on this website.</u></li> </ul>
<p><b>Object</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by <u>[date]</u>, 2024. Non-Quebec residents should send their objections to the Settlement Administrator. Quebec residents <del>may</del><u>should</u> send their objections to the following address:  <p style="text-align: center;">Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</p> </li> <li>• Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be</li> </ul>

Schedule “C” – Long-Form Certification Notice

	<p>bound by any Court-approved Settlement even though they objected to it.</p> <ul style="list-style-type: none"> <li>• More information about how to object can be found in paragraph 10 below and at [settlement website]. <a href="#">An objection form is available on this website.</a></li> </ul>
<p><b>Go to the Hearing</b></p>	<ul style="list-style-type: none"> <li>• To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and on [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec.</li> <li>• The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings <a href="#">if they choose to do so (not required).</a></li> </ul>
<p><b>Do Nothing</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li> <li>• Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.</li> </ul>

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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice [advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes.](#) It also provides information about the Settlement ~~of~~, [which pertains to](#) all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the

Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (VINs) ~~provided by GM to the Settlement Administrator~~. [provided by GM to the Settlement Administrator](#).

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14063	2014-060	
	2006-2010 Pontiac Solstice 2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
Key Rotation Recall	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal 2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX 2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14172	2014-273	November 30, 2014

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14497		
		14299	2014-246	
		14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR 2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx 2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14115	2014-104	February 28, 2015
		14116		
		14117		
		14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [\[settlement website\]](#) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [\[settlement website\]](#) or call [\[phone number established by Settlement Administrator\]](#), to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.



Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

CONDEMN Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

CONDEMN Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

CONDEMN Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

## C. THE TERMS OF THE SETTLEMENT AGREEMENT

### 4. What am I giving up under the Settlement Agreement?

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “Released Parties”). ~~Further, all class~~

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage ~~arising from an accident involving a Subject Vehicle~~ relating to the 2014 recalls. These class claims have been discontinued ~~or removed. However, Settlement Class Members will not waive or release~~ from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such individual claims ~~they may have against the Released Parties for personal injury (and related family/dependent claims), wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle~~ will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [settlement website]. The Settlement Agreement describes the Released Claims in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## 5. What ~~am~~might I be receiving under the Settlement Agreement?

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### i. The Settlement Fund Amount

In exchange for Settlement Class Members’ release of the Released Claims, there will be a CA\$12 million settlement fund established (the “**Settlement Fund Amount**”). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### ii. How will payments for eligible claims be allocated?

A “Net Settlement Amount” shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### iii. How do I get a payment from the Net Settlement Amount?

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you ~~must~~will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [settlement website] or by mail to [Settlement Administrator’s address]. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may

register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

### 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“**Co-Lead Counsel**”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP          Attention: <del>Ron Podolny</del>  <del>rpodolny</del> <a href="mailto:Joan.Sloan@rochongenova.com">Joan Sloan</a>  <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a>          Tel: 1-866-881-2292 or local (416) 363-1867          121 Richmond Street West          Suite #900          Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.          Attention: Megan B. McPhee  <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a>          Tel: (416) 596-1414          1203-1200 Bay Street          Toronto, ON M5R 2A5</p>
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~~Note that a Quebec Settlement Class members may seek authorization from the Superior Court of Québec to intervene if the intervention is considered helpful to the Class. A member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.~~

### 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs' Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs' Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs' counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor (in Quebec [\(see below\)](#)) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending a ~~written election to~~ an opt out ~~of the Settlement~~ form by mail, courier, or e-mail so that it is received on or before [date], 2024.

The ~~written election to~~ opt out form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a ~~statement~~ an attestation that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s); and
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s); ~~and~~.

~~e. A clear statement that you want to be excluded from or~~ An opt ~~out of~~ form is available on the Settlement ~~Class and the Settlement Website at~~ Website at [website link].

For **non-Quebec residents**, the ~~written election to~~ opt out form should be sent to the Settlement Administrator through email to [settlement email address], or by mail or courier to [address of Settlement Claims Administrator].

**If you are a Quebec resident**, your opt out ~~election may~~ form should be sent to the following address:

Clerk of the Superior Court of Quebec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

### 9. What happens if I opt out/exclude myself from the Settlement Class?

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## F. OBJECTING TO THE SETTLEMENT

### 10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada. The Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada.

To object, **non-Quebec residents** must deliver a ~~written~~an objection form to the Settlement Administrator by email to [settlement administrator email] or by courier or mail to [settlement administrator address] so that it is received on or before [date], 2024.

**If you are a Quebec resident, your objection form should be sent by [date], 2024 to the following address:**

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A ~~brief~~ statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

[An objection form is available on the Settlement Website at \[website link\].](#)

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

## G

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

### G. INTERVENOR STATUS

#### 11. Can I intervene as a party in the file?

Note that Quebec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Quebec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Quebec Settlement Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.

### H. THE APPROVAL HEARINGS IN COURT

#### 12. ~~11.~~ When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on [date], 2024 at [time] a.m. (Eastern Time); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Quebec H2Y 1B6 on [date], 2024 at [time] a.m. (Eastern Time).

The hearings may move to a different date, time, or location, or may be held virtually through videoconferencing. Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [settlement website] or call [settlement phone number established by Settlement Administrator] for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final [and when the claims period will start](#). Please check the Settlement Website [[settlement website link](#)]. You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

**13. ~~12.~~ Do I have to go to the hearings?**

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to attend the hearings at your own expense, or through videoconferencing if the Settlement Approval Hearings are heard virtually.

If you ~~send a written~~ [object by sending an](#) objection ~~to the Settlement Administrator~~ [form](#), you do not have to come to court to talk about it. So long as you ~~mailed~~ [sent](#) your ~~written~~ [objection form](#) on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. ~~13.~~ May I speak at the hearings?**

Yes. If you submitted a proper ~~written~~ objection ~~to the Settlement Administrator~~ [form](#), you or your lawyer may, at your own expense, come to the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. [You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.](#)

**H.I. IF YOU DO NOTHING**

**15. ~~14.~~ What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be



part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.

#### **IJ. GETTING MORE INFORMATION**

##### **16. ~~15.~~ How do I get more information about the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [[website](#)]. If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>		
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to [ <a href="#">website</a> ], where you will find answers to common questions and other detailed information to help you.	
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call [ <a href="#">phone number established by Settlement Administrator</a> ].	
<b>CONTACT CLASS COUNSEL</b>	Rochon Genova LLP  Attention: <del>Ron Pedolny</del> <a href="#">rpedolny</a> <a href="#">Joan Sloan</a> <a href="#">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867  121 Richmond Street West Suite #900 Toronto, ON M5H 2K1	Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414  1203-1200 Bay Street Toronto, ON M5R 2A5

Document comparison by Workshare Compare on March 15, 2024 3:59:00 PM

Input:	
Document 1 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/Working folder/2024-02-06 Revised Notice Material - Long Form.docx
Description	2024-02-06 Revised Notice Material - Long Form
Document 2 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/Working folder/D1 - 2024-03-15 - Modified Long-Form Notice.docx
Description	D1 - 2024-03-15 - Modified Long-Form Notice
Rendering set	Standard

Legend:	
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<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	123
Deletions	85
Moved from	6
Moved to	6
Style changes	0
Format changes	0
Total changes	220

**EXHIBIT E – OPT-OUT FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

## OPT-OUT FORM

ONLY SUBMIT THIS FORM IF YOU **DO NOT** WANT TO PARTICIPATE IN AND CLAIM BENEFITS UNDER THE SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO EXCLUDE YOURSELF** from the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at ([settlement website](#)).

### 1. REQUESTOR IDENTIFICATION

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an opt-out request.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are opting out of the proposed settlement on someone else's behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;
- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

**I CONFIRM THIS OPT-OUT REQUEST IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS**

## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

## 3. PROOF OF OWNERSHIP

For each of the vehicles identified in item 3, **attach a copy of your proof of ownership**. If you own or previously owned the vehicle, please provide a copy of the vehicle's registration certificate or bill of sale. If you lease or previously leased the vehicle, please provide a copy of the lease agreement relating to the vehicle.

## 4. I WISH TO OPT OUT

Check the box below to confirm your intention to opt out of the proposed settlement.

I wish to be excluded from the General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement and am opting out.

**I OPT OUT**

## 5. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
YYYY MM DD

## 6. SUBMISSION

If you wish to opt-out of the proposed settlement, your completed opt-out form **MUST** be received on or before (**opt-out deadline**).

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Quebec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your completed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">JND Legal Administration (Settlement Administrator Mailing Address) (Settlement Administrator Email Address)</p>
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**EXHIBIT F – OBJECTION FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

## OBJECTION FORM

ONLY SUBMIT THIS FORM IF YOU WISH TO OBJECT TO THE PROPOSED SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO OBJECT** to the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at ([settlement website](#)).

### 1. OBJECTOR IDENTIFICATION

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an objection.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are objecting to the proposed settlement on someone else's behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;
- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;
- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

**I CONFIRM THIS OBJECTION IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS**

## 2. VEHICLE IDENTIFICATION

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

Vehicle Make and Model:	
Model Year of Vehicle:	Vehicle Identification Number (VIN):

## 3. I WISH TO OBJECT

Provide in the box below your objection to the proposed settlement. You can also provide your objection in an attachment.

## 4. SETTLEMENT APPROVAL HEARINGS

The Superior Court of Québec will hold a settlement approval hearing in person at the Montreal Courthouse at 1 Notre-Dame Street East, Montreal and by video conference on (settlement approval hearing date).			
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
The Ontario Superior Court of Justice will hold a settlement approval hearing by video conference from 130 Queen Street West, Toronto on (settlement approval hearing date).			
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No



If you will be appearing through a lawyer, please provide the following personal identification information for your lawyer.  
If more than one lawyer represents you, please provide the following information for other lawyers in an attachment.

Lawyer's Last Name:		Lawyer's First Name:	
Lawyer's Mailing Address:			Suite Number:
City:	Province/State:	Postal Code/Zip Code:	Country:
Lawyer's Phone Number:	Lawyer's Email Address:		Lawyer's Law Firm Name:

## 5. SIGNATURE

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY MM DD

## 6. SUBMISSION

If you wish to object to the proposed settlement, your completed objection form MUST be received on or before (objection deadline).

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Quebec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your completed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">JND Legal Administration (Settlement Administrator Mailing Address) (Settlement Administrator Email Address)</p>
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**EXHIBIT G – SIMPLIFIED PRINT NOTICE**

252

0653

# If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

## YOUR LEGAL RIGHTS AND OPTIONS

### **Do Nothing**

- ▶ Submit a claim for benefits, if/after the Settlement is approved
- ▶ Be bound by the Settlement, if approved

### **Opt-Out from the Settlement by [date], 2024**

- ▶ Receive no payment, if/when the Settlement is approved
- ▶ Keep your right to sue GM for economic loss

### **Object to the Settlement by [date], 2024**

- ▶ You can only object if you do not opt-out of the Settlement

### **Attend the Approval Hearing**

- ▶ Before the Ontario Superior Court of Justice on [month/date], 2024
- ▶ Before the Superior Court of Québec on [month/date], 2024

### **LEARN MORE / REGISTER FOR UPDATES**



[settlement website]

[TFN]

*Pour une notice en Français,  
visitez [settlement website]*

**EXHIBIT H – STANDARD PRINT NOTICE**

**If You Owned or Leased a GM Vehicle that Was Subject to Certain  
2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.**

*Pour une notice en Français, visitez [settlement website].*

**The purpose of this Notice is to inform you of the certification/authorization  
of the class actions, the proposed Settlement and your legal rights.** You were sent  
this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) (collectively, “GM”) deny these allegations.

**Who Is Included?**

The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.

**What Does the Settlement Provide?**

If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible Settlement Class Members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These class claims have been discontinued from the class actions, but any such individual claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.

**YOUR LEGAL RIGHTS AND OPTIONS  
IN THIS SETTLEMENT**

**Option 1: Participate in the Settlement –  
Do nothing for now**

If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

**Option 2: Opt-out of the Settlement**

You may **opt-out** of the Settlement, in which case you will not be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-

out form (see below) must be sent by [date], 2024. You may not opt-out *and* object.

**IF YOU DO NOT OPT-OUT AND THE  
SETTLEMENT IS APPROVED, YOU WILL  
BE BOUND BY THE RELEASE, WAIVER  
AND COVENANT NOT TO SUE.**

**Option 3: Object to the Settlement**

If you do not opt-out and if you do not like the Settlement, you may **object** to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by [date], 2024.

**Opt-Out Form, Objection Form and  
their submission**

The opt-out form, objection form and further information are available at [settlement website]. Non-Quebec residents should send their opt-out form or objection form to the Settlement Administrator (see below). If you are a Quebec resident, your objection or opt-out form should be sent to the following address:

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: Michael Gagnon v.

General Motors of Canada et. al.  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

**Approval Hearings**

The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs’ counsel fees and expenses will take place before the Ontario Superior Court of Justice on [month/date], 2024 at [time] a.m. eastern time; and the Superior Court of Québec on [month/date], 2024 at [time] a.m. eastern time. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.

**YOU MAY SEEK  
ADDITIONAL INFORMATION**

**Contact Class Counsel**

Rochon Genova LLP  
Attention: Joan Sloan  
jsloan@rochongenova.com  
Tel: 1-866-881-2292 or local (416) 363-1867

Kim Spencer McPhee Barristers P.C.  
Attention: Megan B. McPhee  
mbm@complexlaw.ca  
Tel: (416) 596-1414

**Settlement Website**

See [settlement website] for the Long-Form Notice, important documents and forms, answers to common questions and other detailed information to help you.

**Settlement Administrator**

The Settlement Administrator can be reached at [email/phone/address].

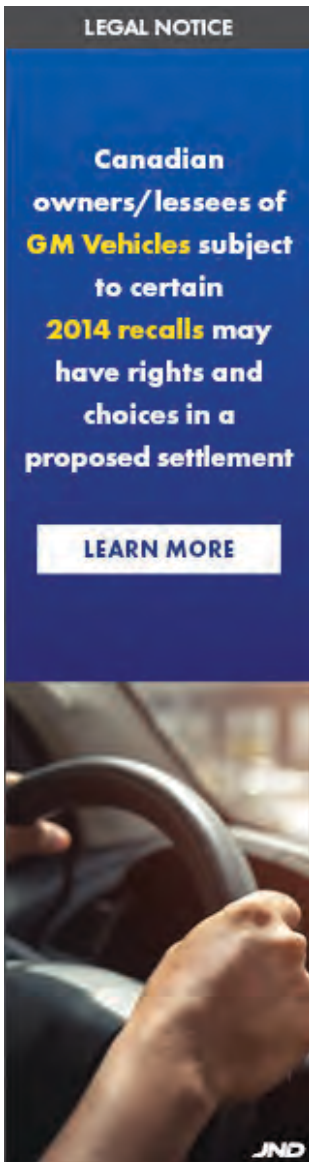
**EXHIBIT I – DIGITAL WEBSITE/SOCIAL MEDIA ADVERTISEMENTS**

# Google Display Network Ads - Certification

728 x 90



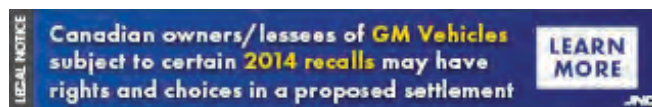
160 x 600



300 x 250



320 x 50



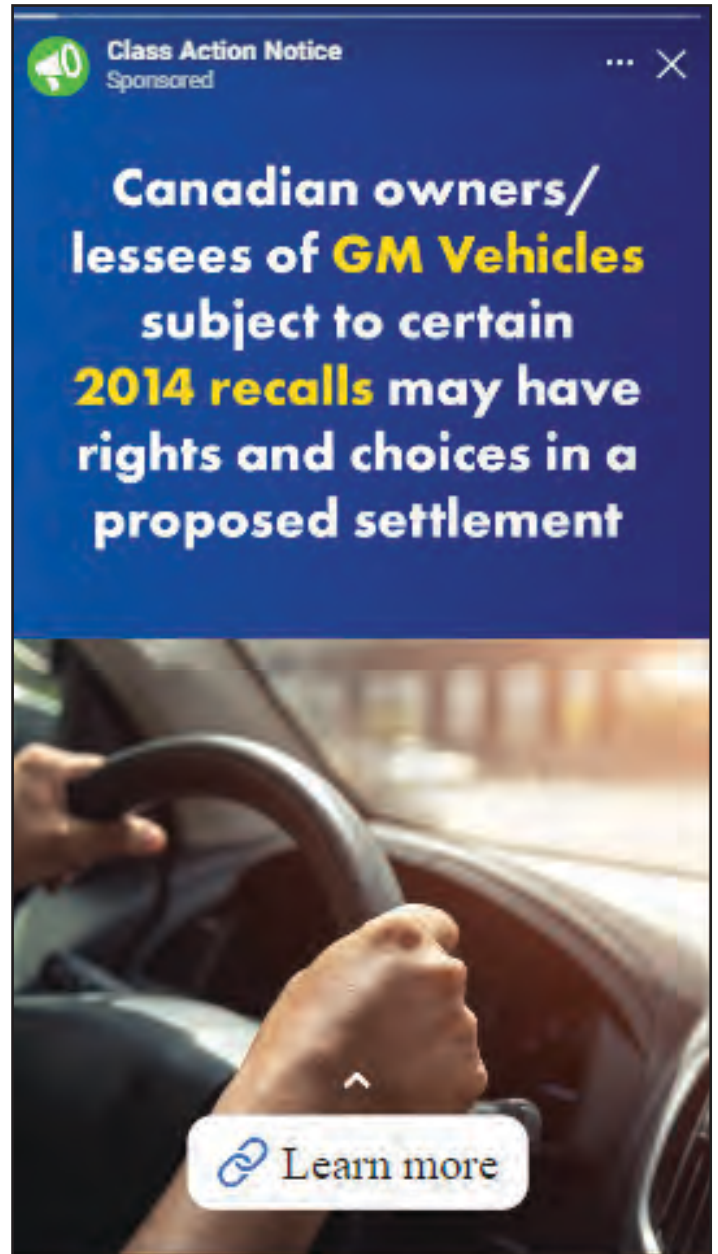
# Facebook Ads – Certification

## Facebook News Feed



This image shows a Facebook News Feed advertisement. At the top left, there is a green megaphone icon, the text "Class Action Notice", and "Sponsored" with a small logo. To the right are a close button (X) and a menu icon (three dots). The main visual is a photograph of a person's hands on a car steering wheel. Below the photo is a dark blue banner with white text: "Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may have rights and choices in a proposed settlement". At the bottom left, it says "sample.com" and at the bottom right is a "Learn more" button. The bottom of the ad features three interactive icons: "Like", "Comment", and "Share".

## Facebook Stories



This image shows a Facebook Story advertisement. At the top left, there is a green megaphone icon, the text "Class Action Notice", and "Sponsored". To the right are a menu icon (three dots) and a close button (X). The main visual is a photograph of a person's hands on a car steering wheel. Overlaid on the top half of the photo is a dark blue banner with white text: "Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may have rights and choices in a proposed settlement". At the bottom of the story is a white rounded rectangle containing a blue link icon and the text "Learn more".



# Schedule "3"

Schedule "3"**SUPERIOR COURT**

(Class Actions Chamber)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-06-000729-158  
500-06-000687-141

DATE: May 6, 2024

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**BY THE HONOURABLE PIERRE NOLLET., J.S.C.**

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500-06-000729-158

**MICHAEL GAGNON**

Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**

**GENERAL MOTORS LLC**

Defendants

No. 500-06-000687-141

**MICHAEL GAGNON**

Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**

**GENERAL MOTORS LLC**

Defendants.

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JUDGMENT

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### **OVERVIEW**

[1] The Court has received a RE-AMENDED APPLICATION FOR THE APPROVAL OF NOTICES TO CLASS MEMBERS, TO AMEND THE APPLICATIONS TO INSTITUTE A CLASS ACTION AND AUTHORIZE A CLASS ACTION FOR SETTLEMENT PURPOSES AS OF APRIL 11, 2024<sup>1</sup>. (“**the Application**”).

[2] On March 19, 2014, the Applicant brought his Application for Authorization against the Defendants General Motors of Canada and General Motors Company (the “Defendants”) regarding the ignition switch defect (the “Québec IS Action”) (File court number: 500-06-000687-141) on behalf of the following proposed class:

All persons in Quebec (including but not limited to individuals, corporations, and estates) who, on the dates of February 10, 2014, February 26, 2014 and March 31, 2014 owned one of the following vehicles:

- 2005-2010 Chevrolet Cobalt
- 2006-2011 Chevrolet HHR
- 2000-2014 Chevrolet Impala
- 2005-2006 Pontiac Pursuit
- 2007-2010 Pontiac G5
- 2006-2010 Pontiac Solstice
- 2003-2007 Saturn ION
- 2007-2010 Saturn Sky

[3] On January 23, 2015, the Applicant brought another Application for Authorization against the Defendants, General Motors of Canada and General Motors Company (the “Defendants”) regarding the electric power steering defect (the “Québec EPS Action”) (File Court number: 500-06-000729-158) on behalf of the following proposed class:

All persons in Quebec (including but not limited to individuals, corporations, and estates) who, on March 31, 2014, owned one of the following Subject Vehicles:

- 2004-2006, 2008, 2009 Chevrolet Malibu
- 2004-2006 Chevrolet Malibu Maxx
- 2009-2010 Chevrolet HHR

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<sup>1</sup> The reference to April 11, 2024 is simply intended to identify the date of the last version of the modifications. The re-modified application was submitted on April 22, 2024.

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- 2010 Chevrolet Cobalt
- 2008-2009 Saturn Aura
- 2004-2007 Saturn ION
- 2005, 2006, 2008, 2009 Pontiac G6

[4] The Québec EPS Action and the Québec IS Action are altogether called the “**Quebec Actions**”.

### **1.1 The background in Ontario.**

[5] On December 20, 2023, in the Ontario file, a Motion for consent certification and notice approval was filed and made returnable January 8, 2024.

[6] On January 16, 2024, Justice Perell of the Ontario Superior Court of Justice certified the *Ontario Action* and the National Settlement Class for the purposes of settlement; discontinued class claims for wrongful death, personal injury claims under the *Family Law Act* (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle; appointed JND Legal Administration as Settlement Administrator to perform the duties set out in the Settlement Agreement; and approved the Short-Form Certification Notice, Long-Form Certification Notice and the Notice Program<sup>2</sup>.

[7] Following the March 4, 2024 decision of the Quebec Superior Court on the insufficiency of the Notice Program and Notices for Quebec purposes, the Ontario Applicant filed an Application to modify the Certification Notices and Notice Program in Ontario as well.

[8] This Application is scheduled to be heard on May 6, 2024.

### **1.2 The Application in Quebec**

[9] In support of the Application and of the sufficiency of the Notice Program, a sworn declaration (Affidavit) from Ms. Jennifer Keough has been entered as evidence.<sup>3</sup> Ms. Keough is the Chief Executive Officer of JND Legal Administration, the Settlement Administrator to be appointed.

[10] A second sworn declaration in support of the Application was filed by a lawyer from Rochon Genova, co-counsels for Plaintiffs. His Affidavit gives an overview of the procedural history in all jurisdictions and specifies the defect identified in certain GM vehicles from 1997 onwards.

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<sup>2</sup> R-1.

<sup>3</sup> R-10 March 15, 2024.

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[11] He explains, amongst other things, that the principal allegation in both the Quebec Actions and the Ontario Action is that the subject ignition switches are prone to too-easy rotation and so can inadvertently move from the “run” position to the “accessory” or “off” position while the vehicle is in motion, resulting in a shutdown of the vehicle’s electrical system, complete loss of engine power and steering/braking assists, and disabling of the airbags. This defect is dangerous and has been associated with serious injuries and deaths.

[12] Similarly to the Ontario proceedings, the Application seeks to amend the Application for Authorization to remove any allegation regarding certain damages associated with owning a vehicle subject to the recalls<sup>4</sup>. As stated in Section 11.2 of the Settlement Agreement<sup>5</sup>:

“[i]t is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only”.

[13] For Quebec residents, injuries and deaths caused by an automobile, by the use thereof or by the load carried in or on an automobile, is indemnifiable by the Société de l’assurance automobile du Québec regardless of who is at fault.

[14] The Application also seeks the approval of a revised Notice Program and related Notices.

## **2. APPLICABLE LAW**

[15] The key provisions of the Civil Code of procedure (CCP) with respect to Authorization, Settlement approval and Notices are as follows:

576. The judgment authorizing a class action describes the class whose members will be bound by the class action judgment, appoints the representative plaintiff and identifies the main issues to be dealt with collectively and the conclusions sought in relation to those issues. It describes any subclasses created and determines the district in which the class action is to be instituted.

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<sup>4</sup> Exhibit R-2, *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* in the *Québec IS Action* (500-06-000687-141) and in the *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* (the *Québec EPS Action* (500-06-000729-158)).

<sup>5</sup> Exhibit R-3.

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The judgment orders the publication of a notice to class members; it may also order the representative plaintiff or a party to make information on the class action available to the class members, including by setting up a website.

The judgment also determines the time limit for opting out of the class. The opting-out period cannot be shorter than 30 days or longer than six months after the date of the notice to class members. The time limit for opting out is a strict time limit, although a class member, with leave of the court, may opt out after its expiry on proving that it was impossible in fact for the class member to act sooner.

590. A transaction, acceptance of a tender, or an acquiescence is valid only if approved by the court. Such approval cannot be given unless notice has been given to the class members.

In the case of a transaction, the notice must state that the transaction will be submitted to the court for approval on the date and at the place indicated. It must specify the nature of the transaction, the method of execution chosen and the procedure to be followed by class members to prove their claim. The notice must also inform class members that they may assert their contentions before the court regarding the proposed transaction and the distribution of any remaining balance. The judgment approving the transaction determines, if necessary, the mechanics of its execution.

[The Court underlines]

### **3. ANALYSIS**

[16] This decision deals with the portion of the Application seeking Court's approval of the Revised Short Form Notice<sup>6</sup>, a CGM - Standard FRENCH Newspaper Ad<sup>7</sup>, a CGM - Simplified Print Ad (French) - 5.04x6.29<sup>8</sup>, Various mock-up of electronic media adds<sup>9</sup>, a Revised Long Form Notice<sup>10</sup>, the Revised Notice Program<sup>11</sup>, the appointment of JND Legal Administration as Settlement Administrator, the Opt-Out Form<sup>12</sup>, the Opt-Out deadline, the Approval hearing and the manner in which comments on or objection to the Settlement Agreement can be done using the Objection Form<sup>13</sup>.

#### **3.1 Short Form Notice**

[17] The Short Form Notice is two pages long and contains a summary of all the relevant information relating to the Settlement Agreement, the options available to the

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<sup>6</sup> Revised Exhibit R-4.

<sup>7</sup> Version of 3.21.2024.

<sup>8</sup> Version of 3.20.2024.

<sup>9</sup> French Media Version of 3.20.2024.

<sup>10</sup> Revised Exhibit R-5.

<sup>11</sup> Revised Exhibit R-6.

<sup>12</sup> Revised Exhibit R-7.

<sup>13</sup> Revised Exhibit R-8.

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Class Members, including the deadline to opt-out, the deadline to object or comment on the Settlement Agreement, contains a hyperlink to various relevant documents including the Long Form Notice, the Settlement Agreement. It will be sent to Class Members through email.

[18] Remains to be inserted the date at which the actual Approval Hearing will take place. The room in which it will take place is subject to change and will be posted on the Settlement Administrator and Class Counsel websites if and when it changes.

[19] The Court shall approve, at a later date, the **dissemination date** as well as the **approval hearing date** to be inserted in the Revised Short Form Notices.

### 3.2 Revised Long Form Notice

[20] The notice is intended to inform putative Class Members of various elements: the authorization of the Class Action for settlement purposes, the modification to the Application for Authorization, the Settlement Agreement and all putative Class Members rights and obligations arising therefrom.

[21] Following the Court's comments, the parties modified the Long Form Notice to include most of the missing elements. It does conform to sections 579, 581 and 590 CPC.

[22] The Court shall approve, at a later date, the **dissemination date** as well as the **approval hearing date** to be inserted in the Revised Long Form Notice.

### 3.3 The Revised Notice Program

[23] The Revised Notice Program provides for the setting up of a Settlement Website by the Settlement Administrator with the following information:

- 23.1. English and French copies of the Settlement Agreement as well as the Certification and Approval notices on the.
- 23.2. A summary of the benefits available to Eligible Claimants;
- 23.3. The ability of Settlement Class Members to sign up to receive updates;
- 23.4. A searchable database by Vehicule Identification Number (VIN);
- 23.5. Information on key dates and procedures for Opting-Out, Objecting and the Settlement Approval Hearings;
- 23.6. A Settlement claims process;
- 23.7. A toll-free phone number;

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[24] Notices include Revised Long-Form Notice to be posted on the Settlement Website, a Revised Short Form Notice to be emailed to Settlement Class Members, a press release, a modified version of the Revised Short Form Notice to be published in the print and digital replica editions of the newspapers and a reminder press release.

[25] As for the dissemination method, the Settlement Administrator will deliver the Revised Short Form Notice by email to Settlement Class Members for whom Defendants have provided a valid e-mail address as well as those Settlement Class Members who have contacted Applicants' counsel. The modified version of the Revised Short Form Notice will be published in various print newspapers as well as their digital replica.

[26] Counsel for the Applicants will post the Revised Long Form Notices and refer to the Settlement Website.

### 3.3.1.1 The putative Class Members will be emailed directly.

[27] The Court tends to agree with the parties that direct email may be the most efficient way to inform putative Class Members.

[28] The Court has obtained evidence with respect to the expected effectiveness of Revised Notice Program.

#### FOR THESE REASONS, THE COURT:

[29] <b>GRANTS</b> the Re-Amended Application dated as of April 11, 2024;	<b>ACCORDE</b> la demande de modification datée du 11 avril 2024 ;
[30] <b>PERMITS</b> the Applicant to amend the "Amended Application for authorization to institute a class action and to appoint a representative plaintiff", as set forth in the " <i>Re-Amended Application for authorization to institute a class action and to appoint a representative plaintiff</i> ", in the file <b>500-06-000687-141</b> ;	<b>PERMET</b> au demandeur de modifier la « Demande modifiée d'autorisation d'exercer un recours collectif et d'être nommé représentant des demandeurs, tel qu'énoncé dans la « <i>Demande remodifiée d'autorisation d'exercer un recours collectif et de nommer un représentant au groupe</i> », dans le dossier <b>500-06-000687-141</b> ;
[31] <b>PERMITS</b> the Applicant to amend the "Application for authorization to institute a class action and to appoint a representative plaintiff", as set forth in the " <i>Re-Amended Application for authorization to institute a class action and to appoint a representative plaintiff</i> ", in the file <b>500-06-000729-158</b> ;	<b>PERMET</b> au demandeur de modifier la « Demande modifiée d'autorisation d'exercer un recours collectif et d'être nommé représentant des demandeurs, tel qu'énoncé dans la « <i>Demande remodifiée d'autorisation d'exercer un recours collectif et de nommer un</i>



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	<i>représentant au groupe »</i> , dans le dossier <b>500-06-000729-158</b> ;
[32] <b>AUTHORIZES</b> the bringing of a class action and to ascribe the status of representative filed by Applicant Michael Gagnon for settlement purposes only and <b>APPOINTS</b> Michael Gagnon as the representative plaintiff in both proceedings 500-06-000687-141 and 500-06-000729-158;	<b>AUTORISE</b> la demande d'introduction d'une action collective et pour attribuer le statut de représentant, déposée par le demandeur Michael Gagnon, aux fins de règlement seulement et <b>NOMME</b> Michael Gagnon à titre de représentant demandeur dans les deux instances 500-06-000687-141 et 500-06-000729-158 ;
[33] <b>APPROVES</b> the Revised Notice Program (filed as Exhibit R-6) and all its Schedules;	<b>APPROUVE</b> le Programme révisé de diffusion des avis (déposé comme pièce R-6) et toutes ses annexes ;
[34] <b>APPROVES</b> the dissemination of the Schedules of the Revised Notice Program pursuant to such Revised Notice Program;	<b>APPROUVE</b> la diffusion des avis révisés qui se trouvent en annexes au Programme révisé de diffusion des avis ;
[35] <b>ORDERS</b> that the Settlement Approval Hearing in Quebec will proceed on a date and at a time to be set by the Court in accordance with a timetable to be provided by the Parties and approved by the Court at a later date;	<b>ORDONNE</b> que l'audience d'approbation du Règlement au Québec se déroule à une date et à une heure qui seront fixées par la Cour à une date ultérieure conformément à un calendrier qui sera fourni par les parties et approuvé par la Cour;
[36] <b>ORDERS</b> that the date and time of the Settlement Approval Hearing in Quebec be stated in the Revised Short and Long notices to be sent as part of the Revised Notice Program, including its Schedules, once the date and time of the Settlement Approval Hearing in Quebec is set by the Court, subject to any adjournment by the Court without further notice to the Quebec Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator and Class Counsel;	<b>ORDONNE</b> que la date et l'heure de l'audience d'approbation du règlement au Québec soient indiquées dans les avis court et détaillé révisés qui seront envoyés dans le cadre du Programme révisé de diffusion des avis, y compris ses annexes, une fois que la date et l'heure de l'audience d'approbation du règlement au Québec sont fixées par la Cour, sous réserve de tout ajournement par la Cour sans autre préavis aux membres du groupe de Règlement du Québec, autre que celui qui peut être affiché sur le Site Web du Règlement

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	tenu à jour par l'administrateur du règlement et les avocats du groupe.
[37] <b>ORDERS</b> that the Approval Hearing in Quebec will proceed in room 2.08 of the Montreal Court House or in any other room as the Judge sitting in room 2.08 on that day, may designate, subject to any adjournment by the Court without further notice to the Quebec Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator or on Class Counsel's website;	<b>ORDONNE</b> que l'audience d'approbation au Québec se déroule dans en salle 2.08 du Palais de justice de Montréal ou dans toute autre salle que le juge siégeant en salle 2.08 ce jour-là peut désigner, sous réserve de tout ajournement par la Cour sans autre avis aux membres du groupe visé par le règlement du Québec autre que celui qui peut être affiché sur le site Web de l'administrateur du règlement tenu à jour par l'administrateur du règlement ou sur le site des avocats du groupe;
[38] <b>ORDERS</b> that JND Legal Administration be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement;	<b>ORDONNE</b> que JND Legal Administration soit nommée à titre d'administrateur du règlement pour s'acquitter des fonctions énoncées dans l'Entente de règlement;
[39] <b>APPROVES</b> the Revised Opt-Out Form, filed as EXHIBIT-R-7;	<b>APPROUVE</b> le formulaire d'exclusion révisé, déposé en tant que pièce-R-7;
[40] <b>ORDERS</b> that all Quebec Settlement Class members may opt out and exclude themselves from this proceeding shall deliver a completed Opt-Out form (EXHIBIT-R-7) to the Clerk of the Superior Court of Quebec, in accordance with the instructions contained in said form no later than the Opt-Out Deadline (being sixty (60) days after notice of the Settlement Approval Hearing is first published or disseminated in accordance with the Revised Notice Program);	<b>ORDONNE</b> que, pour que les membres du groupe visé par le règlement du Québec puissent se retirer et s'exclure de la présente instance, ils doivent remettre un formulaire d'exclusion dûment rempli (pièce R-7), au greffier de la Cour supérieure du Québec, conformément aux instructions contenues dans ledit formulaire, au plus tard à la date limite d'exclusion (soit soixante (60) jours après la première publication ou diffusion de l'avis de l'audience d'approbation du règlement conformément au Programme révisé de diffusion des avis);
[41] <b>ORDERS</b> that all Quebec Settlement Class members who do not opt out of this proceeding by the Opt-Out Deadline shall be	<b>ORDONNE</b> que tous les membres du groupe visés par le règlement du Québec et qui ne se s'excluent pas de

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<p>bound as of the Effective Date by all terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.</p>	<p>la présente instance avant la date limite d'exclusion, soient liés par toutes les modalités de l'Entente de règlement à compter de la Date d'entrée en vigueur prévue à l'Entente de règlement, si celle-ci est approuvée par la Cour, et ne puissent plus s'exclure de la présente action à l'avenir.</p>
<p>[42] <b>APPROVES</b> the Revised Objection Form filed as EXHIBIT-R-8.</p>	<p><b>APPROUVE</b> le formulaire d'opposition révisé déposée en tant que pièce-R-8</p>
<p>[43] <b>ORDERS</b> that Quebec Settlement Class members who wish to file with the Court, comments or an objection to the Settlement shall deliver a completed Revised Objection Form (EXHIBIT-R-8) to the Clerk of the Superior Court of Quebec in accordance with the instructions contained in said form, no later than the Objection Deadline, being sixty (60) days after notice of the Approval Hearing is first published or disseminated in accordance with the Revised Notice Program.</p>	<p><b>ORDONNE</b> aux membres du groupe visé par le règlement du Québec qui souhaitent déposer auprès de la Cour Supérieure une opposition ou des commentaires au sujet de l'Entente de règlement, de remettre le formulaire d'opposition révisé (pièce-R-8) dûment rempli, au greffier de la Cour supérieure du Québec conformément aux instructions contenues dans ledit formulaire, au plus tard à la date limite d'opposition, soit soixante (60) jours après la première publication ou diffusion de l'avis de l'audience d'approbation conformément au Programme révisé de diffusion des avis ;</p>
<p>[44] <b>ORDERS</b> that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including authorization of the Quebec Settlement Class for settlement purposes and all written elections to opt-out delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, upon application made to this Court.</p>	<p><b>ORDONNE</b> que, si l'Entente de règlement n'est pas approuvée, si elle est résiliée conformément à ses modalités ou si elle ne prend pas effet pour quelque raison que ce soit, les présentes ordonnances, y compris l'autorisation du groupe visé par le Règlement du Québec aux fins du règlement et tous les choix écrits d'exclusion donnés en vertu du présent jugement, seront annulés et déclarés nuls, nonavenus et sans effet, sur demande présentée à notre Cour;</p>

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[45] **WITHOUT LEGAL COSTS.**

**SANS FRAIS DE JUSTICE.**



Signature numérique  
de Pierre Nollet  
Date : 2024.05.06  
08:24:40 -04'00'

HONOURABLE PIERRE NOLLET J. S. C.

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Hearing date:      Paper process

OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**AMENDED ORDER**

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**SUPERIOR COURT**  
(Class Actions Chamber)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

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[8] This Application is scheduled to be heard on May 6, 2024.

### **1.2 The Application in Quebec**

[9] In support of the Application and of the sufficiency of the Notice Program, a sworn declaration (Affidavit) from Ms. Jennifer Keough has been entered as evidence.<sup>3</sup> Ms. Keough is the Chief Executive Officer of JND Legal Administration, the Settlement Administrator to be appointed.

[10] A second sworn declaration in support of the Application was filed by a lawyer from Rochon Genova, co-counsels for Plaintiffs. His Affidavit gives an overview of the procedural history in all jurisdictions and specifies the defect identified in certain GM vehicles from 1997 onwards.

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<sup>2</sup> R-1.

<sup>3</sup> R-10 March 15, 2024.



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[11] He explains, amongst other things, that the principal allegation in both the Quebec Actions and the Ontario Action is that the subject ignition switches are prone to too-easy rotation and so can inadvertently move from the “run” position to the “accessory” or “off” position while the vehicle is in motion, resulting in a shutdown of the vehicle’s electrical system, complete loss of engine power and steering/braking assists, and disabling of the airbags. This defect is dangerous and has been associated with serious injuries and deaths.

[12] Similarly to the Ontario proceedings, the Application seeks to amend the Application for Authorization to remove any allegation regarding certain damages associated with owning a vehicle subject to the recalls<sup>4</sup>. As stated in Section 11.2 of the Settlement Agreement<sup>5</sup>:

“[i]t is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only”.

[13] For Quebec residents, injuries and deaths caused by an automobile, by the use thereof or by the load carried in or on an automobile, is indemnifiable by the Société de l’assurance automobile du Québec regardless of who is at fault.

[14] The Application also seeks the approval of a revised Notice Program and related Notices.

## **2. APPLICABLE LAW**

[15] The key provisions of the Civil Code of procedure (CCP) with respect to Authorization, Settlement approval and Notices are as follows:

576. The judgment authorizing a class action describes the class whose members will be bound by the class action judgment, appoints the representative plaintiff and identifies the main issues to be dealt with collectively and the conclusions sought in relation to those issues. It describes any subclasses created and determines the district in which the class action is to be instituted.

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<sup>4</sup> Exhibit R-2, *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* in the *Québec IS Action* (500-06-000687-141) and in the *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* (the *Québec EPS Action* (500-06-000729-158)).

<sup>5</sup> Exhibit R-3.

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The judgment orders the publication of a notice to class members; it may also order the representative plaintiff or a party to make information on the class action available to the class members, including by setting up a website.

The judgment also determines the time limit for opting out of the class. The opting-out period cannot be shorter than 30 days or longer than six months after the date of the notice to class members. The time limit for opting out is a strict time limit, although a class member, with leave of the court, may opt out after its expiry on proving that it was impossible in fact for the class member to act sooner.

590. A transaction, acceptance of a tender, or an acquiescence is valid only if approved by the court. Such approval cannot be given unless notice has been given to the class members.

In the case of a transaction, the notice must state that the transaction will be submitted to the court for approval on the date and at the place indicated. It must specify the nature of the transaction, the method of execution chosen and the procedure to be followed by class members to prove their claim. The notice must also inform class members that they may assert their contentions before the court regarding the proposed transaction and the distribution of any remaining balance. The judgment approving the transaction determines, if necessary, the mechanics of its execution.

[The Court underlines]

### **3. ANALYSIS**

[16] This decision deals with the portion of the Application seeking Court's approval of the Revised Short Form Notice<sup>6</sup>, a CGM - Standard FRENCH Newspaper Ad<sup>7</sup>, a CGM - Simplified Print Ad (French) - 5.04x6.29<sup>8</sup>, Various mock-up of electronic media adds<sup>9</sup>, a Revised Long Form Notice<sup>10</sup>, the Revised Notice Program<sup>11</sup>, the appointment of JND Legal Administration as Settlement Administrator, the Opt-Out Form<sup>12</sup>, the Opt-Out deadline, the Approval hearing and the manner in which comments on or objection to the Settlement Agreement can be done using the Objection Form<sup>13</sup>.

#### **3.1 Short Form Notice**

[17] The Short Form Notice is two pages long and contains a summary of all the relevant information relating to the Settlement Agreement, the options available to the

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<sup>6</sup> Revised Exhibit R-4.

<sup>7</sup> Version of 3.21.2024.

<sup>8</sup> Version of 3.20.2024.

<sup>9</sup> French Media Version of 3.20.2024.

<sup>10</sup> Revised Exhibit R-5.

<sup>11</sup> Revised Exhibit R-6.

<sup>12</sup> Revised Exhibit R-7.

<sup>13</sup> Revised Exhibit R-8.

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Class Members, including the deadline to opt-out, the deadline to object or comment on the Settlement Agreement, contains a hyperlink to various relevant documents including the Long Form Notice, the Settlement Agreement. It will be sent to Class Members through email.

[18] Remains to be inserted the date at which the actual Approval Hearing will take place. The room in which it will take place is subject to change and will be posted on the Settlement Administrator and Class Counsel websites if and when it changes.

[19] The Court shall approve, at a later date, the **dissemination date** as well as the **approval hearing date** to be inserted in the Revised Short Form Notices.

### 3.2 Revised Long Form Notice

[20] The notice is intended to inform putative Class Members of various elements: the authorization of the Class Action for settlement purposes, the modification to the Application for Authorization, the Settlement Agreement and all putative Class Members rights and obligations arising therefrom.

[21] Following the Court's comments, the parties modified the Long Form Notice to include most of the missing elements. It does conform to sections 579, 581 and 590 CPC.

[22] The Court shall approve, at a later date, the **dissemination date** as well as the **approval hearing date** to be inserted in the Revised Long Form Notice.

### 3.3 The Revised Notice Program

[23] The Revised Notice Program provides for the setting up of a Settlement Website by the Settlement Administrator with the following information:

- 23.1. English and French copies of the Settlement Agreement as well as the Certification and Approval notices on the.
- 23.2. A summary of the benefits available to Eligible Claimants;
- 23.3. The ability of Settlement Class Members to sign up to receive updates;
- 23.4. A searchable database by Vehicule Identification Number (VIN);
- 23.5. Information on key dates and procedures for Opting-Out, Objecting and the Settlement Approval Hearings;
- 23.6. A Settlement claims process;
- 23.7. A toll-free phone number;

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[24] Notices include Revised Long-Form Notice to be posted on the Settlement Website, a Revised Short Form Notice to be emailed to Settlement Class Members, a press release, a modified version of the Revised Short Form Notice to be published in the print and digital replica editions of the newspapers and a reminder press release.

[25] As for the dissemination method, the Settlement Administrator will deliver the Revised Short Form Notice by email to Settlement Class Members for whom Defendants have provided a valid e-mail address as well as those Settlement Class Members who have contacted Applicants' counsel. The modified version of the Revised Short Form Notice will be published in various print newspapers as well as their digital replica.

[26] Counsel for the Applicants will post the Revised Long Form Notices and refer to the Settlement Website.

### 3.3.1.1 The putative Class Members will be emailed directly.

[27] The Court tends to agree with the parties that direct email may be the most efficient way to inform putative Class Members.

[28] The Court has obtained evidence with respect to the expected effectiveness of Revised Notice Program.

#### FOR THESE REASONS, THE COURT:

<p>[29] <b>GRANTS</b> the Re-Amended Application dated as of April 11, 2024;</p>	<p><b>ACCORDE</b> la demande de modification datée du 11 avril 2024 ;</p>
<p>[30] <b>PERMITS</b> the Applicant to amend the "Amended Application for authorization to institute a class action and to appoint a representative plaintiff", as set forth in the "<i>Re-Amended Application for authorization to institute a class action and to appoint a representative plaintiff</i>", in the file <b>500-06-000687-141</b>;</p>	<p><b>PERMET</b> au demandeur de modifier la « Demande modifiée d'autorisation d'exercer un recours collectif et d'être nommé représentant des demandeurs, tel qu'énoncé dans la « <i>Demande re-modifiée d'autorisation d'exercer un recours collectif et de nommer un représentant au groupe</i> », dans le dossier <b>500-06-000687-141</b> ;</p>
<p>[31] <b>PERMITS</b> the Applicant to amend the "Application for authorization to institute a class action and to appoint a representative plaintiff", as set forth in the "<i>Re-Amended Application for authorization to institute a class action and to appoint a representative plaintiff</i>", in the file <b>500-06-000729-158</b>;</p>	<p><b>PERMET</b> au demandeur de modifier la « Demande modifiée d'autorisation d'exercer un recours collectif et d'être nommé représentant des demandeurs, tel qu'énoncé dans la « <i>Demande re-modifiée d'autorisation d'exercer un recours collectif et de nommer un</i></p>

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	<i>représentant au groupe »</i> , dans le dossier <b>500-06-000729-158</b> ;
[32] <b>AUTHORIZES</b> the bringing of a class action and to ascribe the status of representative filed by Applicant Michael Gagnon for settlement purposes only and <b>APPOINTS</b> Michael Gagnon as the representative plaintiff in both proceedings 500-06-000687-141 and 500-06-000729-158;	<b>AUTORISE</b> la demande d'introduction d'une action collective et pour attribuer le statut de représentant, déposée par le demandeur Michael Gagnon, aux fins de règlement seulement et <b>NOMME</b> Michael Gagnon à titre de représentant demandeur dans les deux instances 500-06-000687-141 et 500-06-000729-158 ;
[33] <b>APPROVES</b> the Revised Notice Program (filed as Exhibit R-6) and all its Schedules;	<b>APPROUVE</b> le Programme révisé de diffusion des avis (déposé comme pièce R-6) et toutes ses annexes ;
[34] <b>APPROVES</b> the dissemination of the Schedules of the Revised Notice Program pursuant to such Revised Notice Program;	<b>APPROUVE</b> la diffusion des avis révisés qui se trouvent en annexes au Programme révisé de diffusion des avis ;
[35] <b>ORDERS</b> that the Settlement Approval Hearing in Quebec will proceed on a date and at a time to be set by the Court in accordance with a timetable to be provided by the Parties and approved by the Court at a later date;	<b>ORDONNE</b> que l'audience d'approbation du Règlement au Québec se déroule à une date et à une heure qui seront fixées par la Cour à une date ultérieure conformément à un calendrier qui sera fourni par les parties et approuvé par la Cour;
[36] <b>ORDERS</b> that the date and time of the Settlement Approval Hearing in Quebec be stated in the Revised Short and Long notices to be sent as part of the Revised Notice Program, including its Schedules, once the date and time of the Settlement Approval Hearing in Quebec is set by the Court, subject to any adjournment by the Court without further notice to the Quebec Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator and Class Counsel;	<b>ORDONNE</b> que la date et l'heure de l'audience d'approbation du règlement au Québec soient indiquées dans les avis court et détaillé révisés qui seront envoyés dans le cadre du Programme révisé de diffusion des avis, y compris ses annexes, une fois que la date et l'heure de l'audience d'approbation du règlement au Québec sont fixées par la Cour, sous réserve de tout ajournement par la Cour sans autre préavis aux membres du groupe de Règlement du Québec, autre que celui qui peut être affiché sur le Site Web du Règlement

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	tenu à jour par l'administrateur du règlement et les avocats du groupe.
[37] <b>ORDERS</b> that the Approval Hearing in Quebec will proceed in room 2.08 of the Montreal Court House or in any other room as the Judge sitting in room 2.08 on that day, may designate, subject to any adjournment by the Court without further notice to the Quebec Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator or on Class Counsel's website;	<b>ORDONNE</b> que l'audience d'approbation au Québec se déroule dans en salle 2.08 du Palais de justice de Montréal ou dans toute autre salle que le juge siégeant en salle 2.08 ce jour-là peut désigner, sous réserve de tout ajournement par la Cour sans autre avis aux membres du groupe visé par le règlement du Québec autre que celui qui peut être affiché sur le site Web de l'administrateur du règlement tenu à jour par l'administrateur du règlement ou sur le site des avocats du groupe;
[38] <b>ORDERS</b> that JND Legal Administration be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement;	<b>ORDONNE</b> que JND Legal Administration soit nommée à titre d'administrateur du règlement pour s'acquitter des fonctions énoncées dans l'Entente de règlement;
[39] <b>APPROVES</b> the Revised Opt-Out Form, filed as EXHIBIT-R-7;	<b>APPROUVE</b> le formulaire d'exclusion révisé, déposé en tant que pièce-R-7;
[40] <b>ORDERS</b> that all Quebec Settlement Class members may opt out and exclude themselves from this proceeding shall deliver a completed Opt-Out form (EXHIBIT-R-7) to the Clerk of the Superior Court of Quebec, in accordance with the instructions contained in said form no later than the Opt-Out Deadline (being sixty (60) days after notice of the Settlement Approval Hearing is first published or disseminated in accordance with the Revised Notice Program);	<b>ORDONNE</b> que, pour que les membres du groupe visé par le règlement du Québec puissent se retirer et s'exclure de la présente instance, ils doivent remettre un formulaire d'exclusion dûment rempli (pièce R-7), au greffier de la Cour supérieure du Québec, conformément aux instructions contenues dans ledit formulaire, au plus tard à la date limite d'exclusion (soit soixante (60) jours après la première publication ou diffusion de l'avis de l'audience d'approbation du règlement conformément au Programme révisé de diffusion des avis);
[41] <b>ORDERS</b> that all Quebec Settlement Class members who do not opt out of this proceeding by the Opt-Out Deadline shall be	<b>ORDONNE</b> que tous les membres du groupe visés par le règlement du Québec et qui ne se s'excluent pas de



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<p>bound as of the Effective Date by all terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.</p>	<p>la présente instance avant la date limite d'exclusion, soient liés par toutes les modalités de l'Entente de règlement à compter de la Date d'entrée en vigueur prévue à l'Entente de règlement, si celle-ci est approuvée par la Cour, et ne puissent plus s'exclure de la présente action à l'avenir.</p>
<p>[42] <b>APPROVES</b> the Revised Objection Form filed as EXHIBIT-R-8.</p>	<p><b>APPROUVE</b> le formulaire d'opposition révisé déposée en tant que pièce-R-8</p>
<p>[43] <b>ORDERS</b> that Quebec Settlement Class members who wish to file with the Court, comments or an objection to the Settlement shall deliver a completed Revised Objection Form (EXHIBIT-R-8) to the Clerk of the Superior Court of Quebec in accordance with the instructions contained in said form, no later than the Objection Deadline, being sixty (60) days after notice of the Approval Hearing is first published or disseminated in accordance with the Revised Notice Program.</p>	<p><b>ORDONNE</b> aux membres du groupe visé par le règlement du Québec qui souhaitent déposer auprès de la Cour Supérieure une opposition ou des commentaires au sujet de l'Entente de règlement, de remettre le formulaire d'opposition révisé (pièce-R-8) dûment rempli, au greffier de la Cour supérieure du Québec conformément aux instructions contenues dans ledit formulaire, au plus tard à la date limite d'opposition, soit soixante (60) jours après la première publication ou diffusion de l'avis de l'audience d'approbation conformément au Programme révisé de diffusion des avis ;</p>
<p>[44] <b>ORDERS</b> that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including authorization of the Quebec Settlement Class for settlement purposes and all written elections to opt-out delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, upon application made to this Court.</p>	<p><b>ORDONNE</b> que, si l'Entente de règlement n'est pas approuvée, si elle est résiliée conformément à ses modalités ou si elle ne prend pas effet pour quelque raison que ce soit, les présentes ordonnances, y compris l'autorisation du groupe visé par le Règlement du Québec aux fins du règlement et tous les choix écrits d'exclusion donnés en vertu du présent jugement, seront annulés et déclarés nuls, nonavenus et sans effet, sur demande présentée à notre Cour;</p>

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[45] <b>WITHOUT LEGAL COSTS.</b>	<b>SANS FRAIS DE JUSTICE.</b>
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Signature numérique  
de Pierre Nollet  
Date : 2024.05.06  
08:24:40 -04'00'

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HONOURABLE PIERRE NOLLET J. S. C.

Me Christine Nasraoui  
MERCHANT LAW GROUP  
Attorneys for Plaintiffs.

Me Joel Rochon  
Me Ron Podolny  
ROCHON GENOVA LLP  
Attorneys for Plaintiff

Me Stephane Pitre  
Me Anne Merminod  
Me Alexis Alain Leray  
BORDEN LADNER GERVAIS LLP  
Attorneys for Defendants

Hearing date:      Paper process



**SUPERIOR COURT**  
(Class Actions Chamber)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-06-000729-158  
500-06-000687-141

DATE: May 15, 2024

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**BY THE HONOURABLE PIERRE NOLLET., J.S.C.**

---

500-06-000729-158

**MICHAEL GAGNON**

Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**

**GENERAL MOTORS LLC**

Defendants

No. 500-06-000687-141

**MICHAEL GAGNON**

Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**

**GENERAL MOTORS LLC**

Defendants.

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JUDGMENT-DATES APPROVAL

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[1] **WHEREAS** on May 6, 2024, the Court approved a Revised Notice Program together with a Revised Short Form Notice and Revised Long Form Notice regarding the eventual approval of a Settlement Agreement;

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[2] **WHEREAS** remained to be decided the date at which the actual Approval Hearing would take place as well as the modalities of such hearing;

[3] **WHEREAS** the Approval Hearing will be held simultaneously in a physical Court room as indicated in the Notices (subject to change as will be posted on the Settlement Administrator and Class Counsel websites) as well as through an electronic audio and video access to such room through the Teams application;

[4] **WHEREAS** the parties have submitted to the Court the following schedule:

Website to go live	Friday	May 17, 2024
Certification Notice - Email Campaign to Start	Monday	May 20, 2024
Simplified Certification Notice Publication Date(s)	Monday	May 20, 2024
<i>Press Release (English and French)</i>	Monday	May 20, 2024
<i>Start of Social Media Campaign</i>	Monday	May 20, 2024
<i>Newspaper Notice (six insertions)</i>	Monday/Tuesday/Wednesday	May 20/21/22/23, 2024
<i>End of Social Media Campaign (GDN, Facebook, 74 million impressions)</i>	Sunday	June 16, 2024
Exclusion Deadline (received)	Friday	July 19, 2024
Objection Deadline (received)	Friday	July 19, 2024
Provide opt-out and objection requests to parties	Tuesday	July 23, 2024
Approval Hearing - Ontario	Tuesday	July 30, 2024
Approval Hearing - Quebec	Wednesday	July 31, 2024

[5] **WHEREAS** the Court agrees with the proposed timetable;

**FOR THESE REASONS, THE COURT:**

[6] **APPROVES** the dissemination of the Schedules of the Revised Notice Program pursuant to the timetable above;

**APPROUVE** la diffusion des avis révisés qui se trouvent en annexes au Programme révisé de diffusion des avis conformément à l'horaire ci-dessus ;

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[7] <b>ORDERS</b> that the Settlement Approval Hearing in Quebec will proceed on July 31; 2024 at 9:30 a.m.	<b>ORDONNE</b> que l'audience d'approbation du Règlement au Québec soit fixée au 31 juillet 2024 à 9h30;
[8] <b>ORDERS</b> that the Opt-Out Deadline be set on July 19, 2024;	<b>ORDONNE</b> que la date limite pour s'exclure de la présente instance soit fixée au 19 juillet 2024;
[9] <b>ORDERS</b> that the Objection Deadline, be set on July 19, 2024;	<b>ORDONNE</b> que la date limite pour s'objecter au règlement soit fixée au 19 juillet 2024;
[10] <b>WITHOUT LEGAL COSTS.</b>	<b>SANS FRAIS DE JUSTICE.</b>

---

HONOURABLE PIERRE NOLLET  
J. S. C.

Me Christine Nasraoui  
MERCHANT LAW GROUP  
Attorneys for Plaintiffs.

Me Joel Rochon  
Me Ron Podolny  
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Me Alexis Alain Leray  
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Attorneys for Defendants

Hearing date:      Paper process




# Motor Vehicle Safety Recalls Database

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> [Motor Vehicle Safety Recalls Database](#)

## Recall Details

### Transport Canada Recall # 2014-038

<b>Recall Date</b>	2014-02-10
<b>Last Updated</b>	2014-03-12
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	13454
<b>Units Affected</b> 	153,310
<b>Category</b>	Car

#### Recall Details

On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the risk of injury. Correction: Dealers will replace the ignition switch. Note: Until the correction is performed, all items should be removed from the key ring.

Make	Model	Model Year(s) Affected
CHEVROLET	COBALT	2005 2006 2007
PONTIAC	G5	2007
PONTIAC	PURSUIT	2005 2006

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-060

<b>Recall Date</b>	2014-02-26
<b>Last Updated</b>	2014-03-13
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14063
<b>Units Affected</b> 	82,514
<b>Category</b>	Car

#### Recall Details

On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight and the vehicle goes off-road or is subjected to some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the risk of injury. Correction: Dealers will replace the ignition switch. Note: Until the correction is performed, all items should be removed from the key ring. Note: This is an expansion of recall 2014-038.

Make	Model	Model Year(s) Affected
CHEVROLET	HHR	2006 2007
PONTIAC	SOLSTICE	2006 2007
SATURN	ION	2003 2004 2005 2006 2007
SATURN	SKY	2007

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-101

<b>Recall Date</b>	2014-03-31
<b>Last Updated</b>	2014-04-03
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Other
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14092
<b>Units Affected</b> 	132,243
<b>Category</b>	Car

#### Recall Details

A safety defect may exist in ignition switches sold as service replacement parts. The defect could allow the ignition switch to unintentionally move from the "run" position to the "accessory" or "o " position with a corresponding reduction or loss of power. This risk may be increased if the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes. General Motors Canada will notify owners of all vehicles not affected by recalls 2014038 (GM number 13454) and 2014060 (GM number 14063) that could potentially have had the affected ignition switches installed during service or repair work. Owners will be instructed to take their vehicle to a dealer for inspection and repair if required. Note: Until the inspection is performed, all items should be removed from the key ring.

Make	Model	Model Year(s) Affected
------	-------	------------------------



CHEVROLET	COBALT	2008 2009 2010
CHEVROLET	HHR	2008 2009 2010 2011
PONTIAC	G5	2008 2009 2010
PONTIAC	SOLSTICE	2008 2009 2010
SATURN	SKY	2008 2009

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>



# Motor Vehicle Safety Recalls Database

[Motor Vehicle Safety](#) > [Vehicle Recalls and Defects](#)

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## Recall Details

### Transport Canada Recall # 2014-273

<b>Recall Date</b>	2014-07-02
<b>Last Updated</b>	2015-02-20
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14172 / 14497B
<b>Units Affected</b>	30,927
<b>Category</b>	Car, SUV

#### Recall Details

On certain vehicles, there is a risk that some drivers may bump the ignition key with their knee and unintentionally move the key from out of the "run" position. If this were to occur, engine power, power braking and power steering would be affected, which would unexpectedly increase steering and brake pedal effort, potentially increasing stopping distances and the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: Dealers are to remove the key blade from the original flip key/transmitter assemblies provided with the vehicle, and provide two new keys and two key rings for every original key. Important note: Until the correction is performed, drivers should adjust their seat and steering column to allow clearance between their knee and the ignition key.

Make	Model	Model Year(s) Affected
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CADILLAC	CTS	2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014
CADILLAC	SRX	2004 2005 2006

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-246

<b>Recall Date</b>	2014-06-23
<b>Last Updated</b>	2014-07-07
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14299
<b>Units Affected</b> 	186,013
<b>Category</b>	Car

#### Recall Details

On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. If this were to occur, engine power, power steering and power braking would be affected, increasing the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: For each key, dealers will install two key rings and modify the key ring opening shape. Note: Until the correction is performed, all items should be removed from the key ring.

Make	Model	Model Year(s) Affected
BUICK	ALLURE	2005 2006 2007 2008 2009
BUICK	LUCERNE	2006 2007 2008 2009 2010 2011

CADILLAC	DEVILLE	2000 2001 2002 2003 2004 2005
CADILLAC	DTS	2006 2007 2008 2009 2010 2011
CHEVROLET	IMPALA	2006 2007 2008 2009 2010 2011 2012 2013
CHEVROLET	MONTE CARLO	2006 2007

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-284

<b>Recall Date</b>	2014-07-03
<b>Last Updated</b>	2015-04-13
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14350
<b>Units Affected</b> 	641,121
<b>Category</b>	Car

#### Recall Details

On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. If this were to occur, engine power, power steering and power braking would be affected, increasing the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: For each key, dealers will install two key rings and modify the key ring opening shape. Note: Until the correction is performed, all items should be removed from the key ring.

Make	Model	Model Year(s) Affected
CHEVROLET	IMPALA	2000 2001 2002 2003 2004 2005
CHEVROLET	MALIBU	1997 1998 1999 2000 2001 2002 2003 2004 2005

CHEVROLET	MONTE CARLO	2000 2001 2002 2003 2004 2005
OLDSMOBILE	ALERO	1999 2000 2001 2002 2003 2004
OLDSMOBILE	INTRIGUE	1998 1999 2000 2001 2002
PONTIAC	GRAND AM	1999 2000 2001 2002 2003 2004 2005
PONTIAC	GRAND PRIX	2004 2005 2006 2007 2008

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-243

<b>Recall Date</b>	2014-06-20
<b>Last Updated</b>	2014-07-02
<b>Notification Type</b>	Safety Mfr
<b>System</b>	Electrical
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14294
<b>Units Affected</b> 	17,736
<b>Category</b>	Car

#### Recall Details

On certain vehicles, there is a risk that some drivers may bump the ignition key with their knee and unintentionally move the key from out of the "run" position. If this were to occur, engine power, power braking and power steering would be affected, which would unexpectedly increase steering and brake pedal effort, potentially increasing stopping distances and the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: Dealers are to remove the key blade from the original flip key/transmitter assemblies provided with the vehicle, and provide two new keys and two key rings for every original key. Important note: Until the correction is performed, drivers should adjust their seat and steering column to allow clearance between their knee and the ignition key.

Make	Model	Model Year(s) Affected
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CHEVROLET	CAMARO	2010 2011 2012 2013 2014
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<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>




# Motor Vehicle Safety Recalls Database

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## Recall Details

### Transport Canada Recall # 2014-104

<b>Recall Date</b>	2014-04-01
<b>Last Updated</b>	2019-02-18
<b>Notification Type</b>	Safety TC
<b>System</b>	Steering
<b>Issued by</b>	GENERAL MOTORS
<b>Manufacturer Recall Number</b>	14118
<b>Units Affected</b> 	157,423
<b>Category</b>	Car

#### Recall Details

Certain vehicles equipped with electric power steering may experience a sudden loss of power steering assist that could occur at any time while driving. If the power steering assist is lost, a message is displayed on the Driver Information Centre and a chime sounds to inform the driver. Steering control can be maintained, as the vehicle will revert to a manual steering mode, but will require greater driver effort. The sudden change in steering may increase the risk of a crash causing injury and/or property damage. Correction: Dealers will affect repairs as necessary. Note: This recall supersedes recalls 2010447 and 2012331. Vehicles having already been repaired under the previous campaigns do not require re-inspection.

Make	Model	Model Year(s) Affected
CHEVROLET	COBALT	2010
CHEVROLET	HHR	2009 2010

CHEVROLET	MALIBU	2004 2005 2006 2008 2009
CHEVROLET	MALIBU MAXX	2004 2005 2006
PONTIAC	G6	2005 2006 2008 2009
SATURN	AURA	2008 2009
SATURN	ION	2004 2005 2006 2007

<b>Manufacturer Name</b>	<b>Contact Number</b>	<b>Web Site</b>
GENERAL MOTORS	1-800-263-3777	<u>CHECK IF THIS RECALL APPLIES TO YOUR VEHICLE</u>

15-2844-bk(L)

*In re Motors Liquidation Co.*

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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August Term 2015

(Argued: March 15, 2016

Decided: July 13, 2016)

Docket Nos. 15-2844-bk(L), 15-2847-bk(XAP), 15-2848-bk(XAP)

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IN THE MATTER OF: MOTORS LIQUIDATION COMPANY,

*Debtor.*

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CELESTINE ELLIOTT, LAWRENCE ELLIOTT, BERENICE SUMMERVILLE,

*Creditors-Appellants-Cross-Appellees,*

SESAY AND BLEDSOE PLAINTIFFS, IGNITION SWITCH PLAINTIFFS, IGNITION SWITCH  
PRE-CLOSING ACCIDENT PLAINTIFFS, DORIS POWLEDGE PHILLIPS,

*Appellants-Cross-Appellees,*

GROMAN PLAINTIFFS,

*Appellants,*

*v.*

GENERAL MOTORS LLC,

*Appellee-Cross-Appellant,*

WILMINGTON TRUST COMPANY,

*Trustee-Appellee-Cross-Appellant,*

PARTICIPATING UNITHOLDERS,

*Creditors-Appellees-Cross-Appellants.*<sup>1</sup>

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ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Before:

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STRAUB, CHIN, and CARNEY, *Circuit Judges.*

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Appeal from a judgment of the United States Bankruptcy Court for the Southern District of New York (Gerber, J.), enforcing a "free and clear" provision of a sale order to enjoin claims against a debtor's successor corporation and concluding under the equitable mootness doctrine that assets of the debtor's unsecured creditors' trust would be protected from late-filed claims. On appeal, plaintiffs challenge the bankruptcy court's rulings that: (1) it had jurisdiction, (2) the sale order covered their claims, (3) enforcement of the sale order would not

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<sup>1</sup> The Clerk of Court is respectfully directed to amend the official caption to conform to the above.

violate procedural due process, and (4) relief for any late-filed claims would be barred as equitably moot.

AFFIRMED, REVERSED, AND VACATED IN PART, AND REMANDED.

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CHIN, *Circuit Judge*:

On June 1, 2009, General Motors Corporation ("Old GM"), the nation's largest manufacturer of automobiles and the creator of such iconic American brands as Chevrolet and Cadillac, filed for bankruptcy. During the financial crisis of 2007 and 2008, as access to credit tightened and consumer spending diminished, Old GM posted net losses of \$70 billion over the course of a year and a half. The U.S. Department of the Treasury ("Treasury") loaned billions of dollars from the Troubled Asset Relief Program ("TARP") to buy the company time to revamp its business model. When Old GM's private efforts failed, President Barack Obama announced to the nation a solution -- "a quick, surgical bankruptcy."<sup>2</sup> Old GM petitioned for Chapter 11 bankruptcy protection, and only forty days later the new General Motors LLC ("New GM") emerged.

This case involves one of the consequences of the GM bankruptcy. Beginning in February 2014, New GM began recalling cars due to a defect in their ignition switches. The defect was potentially lethal: while in motion, a car's ignition could accidentally turn off, shutting down the engine, disabling power steering and braking, and deactivating the airbags.

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<sup>2</sup> *Remarks on the United States Automobile Industry*, 2009 Daily Comp. Pres. Doc. 2 (June 1, 2009).



Many of the cars in question were built years before the GM bankruptcy, but individuals claiming harm from the ignition switch defect faced a potential barrier created by the bankruptcy process. In bankruptcy, Old GM had used 11 U.S.C. § 363 of the Bankruptcy Code (the "Code") to sell its assets to New GM "free and clear." In plain terms, where individuals might have had claims against Old GM, a "free and clear" provision in the bankruptcy court's sale order (the "Sale Order") barred those same claims from being brought against New GM as the successor corporation.

Various individuals nonetheless initiated class action lawsuits against New GM, asserting "successor liability" claims and seeking damages for losses and injuries arising from the ignition switch defect and other defects. New GM argued that, because of the "free and clear" provision, claims could only be brought against Old GM, and not New GM.

On April 15, 2015, the United States Bankruptcy Court for the Southern District of New York (*Gerber, J.*) agreed and enforced the Sale Order to enjoin many of these claims against New GM. Though the bankruptcy court also determined that these plaintiffs did not have notice of the Sale Order as required by the Due Process Clause of the Fifth Amendment, the bankruptcy court denied

plaintiffs relief from the Sale Order on all but a subset of claims. Finally, the bankruptcy court invoked the doctrine of equitable mootness to bar relief for would-be claims against a trust established in bankruptcy court to pay out unsecured claims against Old GM ("GUC Trust").<sup>3</sup>

The bankruptcy court entered judgment and certified the judgment for direct review by this Court.<sup>4</sup> Four groups of plaintiffs appealed, as did New GM and GUC Trust. We affirm, reverse, and vacate in part the bankruptcy court's decision to enforce the Sale Order against plaintiffs and vacate as advisory its decision on equitable mootness.

## **BACKGROUND**

### **I. *Bailout***

In the final two quarters of 2007, as the American economy suffered a significant downturn, Old GM posted net losses of approximately \$39 billion and \$722 million. General Motors Corp., *Annual Report (Form 10-K)* 245 (Mar. 5, 2009). In 2008, it posted quarterly net losses of approximately \$3.3 billion, \$15.5

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<sup>3</sup> For ease of reference, in the context of this appeal, we also refer to Wilmington Trust Company (the administrator of GUC Trust) and the unitholders of GUC Trust collectively and singularly as "GUC Trust."

<sup>4</sup> See 28 U.S.C. § 158(d)(2) (providing jurisdiction for courts of appeals to hear appeals if the bankruptcy court certifies that certain conditions are met).

billion, \$2.5 billion, and \$9.6 billion. *Id.* In a year and a half, Old GM had managed to hemorrhage over \$70 billion.

The possibility of Old GM's collapse alarmed many. Old GM employed roughly 240,000 workers and provided pensions to another 500,000 retirees. *Id.* at 19, 262. The company also purchased parts from over eleven thousand suppliers and marketed through roughly six thousand dealerships. A disorderly collapse of Old GM would have far-reaching consequences.

After Congress declined to bail out Old GM, President George W. Bush announced on December 19, 2008 that the executive branch would provide emergency loans to help automakers "stave off bankruptcy while they develop plans for viability."<sup>5</sup> In Old GM's case, TARP loaned \$13.4 billion on the condition that Old GM both submit a business plan for long-term viability to the President no later than February 17, 2009 and undergo any necessary revisions no later than March 31, 2009. If the President found the business plan unsatisfactory, the TARP funds would become due and payable in thirty days, rendering Old GM insolvent and effectively forcing it into bankruptcy.

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<sup>5</sup> *Remarks on the American Auto Industry*, 44 Weekly Comp. Pres. Doc. 1569 (Dec. 19, 2008).

On March 30, 2009, President Obama told the nation that Old GM's business plan was not viable.<sup>6</sup> At the same time, the President provided Old GM with another \$6 billion loan and sixty more days to revise its plan along certain parameters. President Obama also reassured the public:

But just in case there's still nagging doubts, let me say it as plainly as I can: If you buy a car from Chrysler or General Motors, you will be able to get your car serviced and repaired, just like always. Your warranty will be safe. In fact, it will be safer than it's ever been, because starting today, the United States Government will stand behind your warranty.<sup>7</sup>

As the President stood behind the reliability of GM cars, pledging another \$600 million to back all warranty coverage, bankruptcy remained a stark possibility.<sup>8</sup>

## II. *Bankruptcy*

The federal aid did not succeed in averting bankruptcy. Old GM fared no better in the first quarter of 2009 -- posting on May 8, 2009 a \$5.9 billion net loss. General Motors Corp., *Quarterly Report (Form 10-Q)* 57 (May 8, 2009).

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<sup>6</sup> *Remarks on the United States Automobile Industry*, 2009 Daily Comp. Pres. Doc. 2 (Mar. 30, 2009) [hereinafter "March 30, 2009 Presidential Remarks"].

<sup>7</sup> March 30, 2009 Presidential Remarks, *supra* note 6, at 3.

<sup>8</sup> See Office of the Press Sec'y, White House, *Obama Administration's New Warrantee Commitment Program* (Mar. 30, 2009); see also Office of the Press Sec'y, White House, *Obama Administration New Path to Viability for GM & Chrysler* (Mar. 30, 2009); Steven Rattner, *Overhaul: An Insider's Account of the Obama Administration's Emergency Rescue of the Auto Industry* 299 (2010).

But entering bankruptcy posed a unique set of problems: Old GM sought to restructure and become profitable again, not to shut down; yet if Old GM lingered in bankruptcy too long, operating expenses would accumulate and consumer confidence in the GM brand could deteriorate, leaving Old GM no alternative but to liquidate and close once and for all. On June 1, 2009, with these risks in mind, Old GM petitioned for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York.

**A. *Mechanics of the § 363 Sale***

The same day, Old GM filed a motion to sell itself to New GM (also dubbed "Vehicle Acquisition Holdings LLC" or "NGMCO, Inc."), complete with a 103-page draft sale agreement and 30-page proposed sale order.

Through this proposed sale, Old GM was attempting not a traditional Chapter 11 reorganization, but a transaction pursuant to 11 U.S.C. § 363 -- a less common way of effecting a bankruptcy. *See, e.g., In re Lionel Corp.*, 722 F.2d 1063, 1066-70 (2d Cir. 1983) (explaining the history of § 363). The usual Chapter 11 reorganization follows set procedures: the company entering bankruptcy (the "debtor") files a reorganization plan disclosing to creditors how they will be treated, asks those creditors to vote to accept the plan, and then

emerges from bankruptcy with its liabilities restructured along certain parameters. *See* 11 U.S.C. §§ 1121-1129.<sup>9</sup> This jostling can take years.<sup>10</sup> In contrast, in a § 363 sale of substantially all assets, the debtor does not truly "reorganize." Instead, it sells its primary assets to a successor corporation, which immediately takes over the business. *See Fla. Dep't of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 37 n.2 (2008). As evidenced by the GM bankruptcy, a § 363 sale can close in a matter of weeks.

The proposed sale was, in effect, a complex transaction made possible by bankruptcy law. GM's sale would proceed in several parts. First, Old GM would become a "debtor-in-possession" under the Code. *See* 11 U.S.C. § 1101. Where a trustee might otherwise be appointed to assert outside control of the debtor, *id.* § 1104, a debtor-in-possession continues operating its business, *id.* §§ 1107, 1108. *See In re Smart World Techs., LLC*, 423 F.3d 166, 174 n.10 (2d Cir.

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<sup>9</sup> *See generally* Evan F. Rosen, Note, *A New Approach to Section 363(f)(3)*, 109 Mich. L. Rev. 1529, 1538-39 (2011) ("However, unlike sales pursuant to the standard Chapter 11 plan confirmation process, 363(f) Sales occur without the benefit of the Chapter 11 Safeguards -- the disclosure, notice, voting, and priority safeguards . . . to protect secured creditors.").

<sup>10</sup> *See* Jacob A. Kling, *Rethinking 363 Sales*, 17 Stan. J.L. Bus. & Fin. 258, 262 (2012) ("A plan of reorganization must be submitted to a vote of creditors and equity holders after furnishing them with a disclosure statement, a process that can take years." (footnote omitted)).

2005) ("In a chapter 11 case, . . . the debtor usually remains in control of the estate as the 'debtor in possession.'). Still in control, Old GM could seek the bankruptcy court's permission to sell portions of its business. *See* 11 U.S.C. § 363(b)(1).

Second, there would be New GM, a company owned predominantly by Treasury (over sixty percent). As proposed, New GM would acquire from Old GM substantially all of its business -- what one might commonly think of as the automaker "GM." But New GM would not take on all of Old GM's liabilities. The Code allows a § 363 sale "free and clear of any interest in such property." 11 U.S.C. § 363(f). The proposed sale order provided that New GM would acquire Old GM assets "free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including rights or claims based on any successor or transferee liability." J. App. 276. Other than a few liabilities that New GM would assume as its own, this "free and clear" provision would act as a liability shield to prevent individuals with claims against Old GM from suing New GM. Once the sale closed, the "bankruptcy" would be done: New GM could immediately begin operating the GM business, free of Old GM's debts.

Third, Old GM would remain. The proposed sale would leave Old GM with some assets, including \$1.175 billion in cash, interests in the Saturn brand, and certain real and personal property. Old GM would also receive consideration from New GM, including a promise to repay Treasury and Canadian government loans used to finance the business through bankruptcy and a ten-percent equity stake in New GM. Old GM would retain, however, the bulk of its old liabilities.

Fourth, Old GM would liquidate. Though liquidation is not formally part of a § 363 sale, the sale would result in two GM companies. Old GM would disband: it would rename itself "Motors Liquidation Company" and arrange a plan for liquidation that addressed how its remaining liabilities would be paid. *See* 11 U.S.C. § 1129(a)(11). Thus, while New GM would quickly emerge from bankruptcy to operate the GM business, Old GM would remain in bankruptcy and undergo a traditional, lengthy liquidation process.

**B. *Sale Order***

One day after Old GM filed its motion, on June 2, 2009, the bankruptcy court ordered Old GM to provide notice of the proposed sale order. Old GM was required to send direct mail notice of its proposed sale order to



numerous interested parties, including "all parties who are known to have asserted any lien, claim, encumbrance, or interest in or on [the to-be-sold assets]," and to post publication notice of the same in major publications, including the *Wall Street Journal* and *New York Times*. J. App. 385-86. The sale notice specified that interested parties would have until June 19, 2009 to submit to the bankruptcy court responses and objections to the proposed sale order.

The bankruptcy court proceeded to hear over 850 objections to the proposed sale order over the course of three days, between June 30 and July 2, 2009. On July 5, 2009, after addressing and dismissing the objections, the bankruptcy court approved the § 363 sale. *In re General Motors Corp.* ("GM"), 407 B.R. 463 (Bankr. S.D.N.Y. 2009) (Gerber, J.). Among those objections were arguments against the imposition of a "free and clear" provision to bar claims against New GM as the successor to Old GM made by consumer organizations, state attorneys general, and accident victims.

Next, the bankruptcy court issued the Sale Order, which entered into effect the final sale agreement between Old GM and New GM (the "Sale Agreement"). In the Sale Agreement, New GM assumed fifteen categories of liabilities. As relevant here, New GM agreed to assume liability for accidents

*after* the closing date for the § 363 sale and to make repairs pursuant to express warranties issued in connection with the sale of GM cars -- two liability provisions present in the initial draft sale agreement. The Sale Agreement also provided a new provision -- resulting from negotiations among state attorneys general, the GM parties, and Treasury during the course of the sale hearing -- that New GM would assume liability for any Lemon Law claims.<sup>11</sup> With these exceptions, New GM would be "free and clear" of any and all liabilities of Old GM.

On July 10, 2009, the § 363 sale officially closed, and New GM began operating the automaker business. As a matter of public perception, the GM bankruptcy was over -- the company had exited bankruptcy in forty days.<sup>12</sup>

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<sup>11</sup> The Sale Agreement defined "Lemon Laws" as "state statute[s] requiring a vehicle manufacturer to provide a consumer remedy when such manufacturer is unable to conform a vehicle to the express written warranty after a reasonable number of attempts, as defined in the applicable statute." J. App. 1676.

<sup>12</sup> *See, e.g.,* Bill Vlasic, *G.M. Vow to Slim Includes Top Ranks*, N.Y. Times (July 10, 2009) ("General Motors . . . emerged from bankruptcy on Friday . . ."); John D. Stoll & Neil King Jr., *GM Set to Exit Bankruptcy*, Wall Street Journal (July 10, 2009) ("The new General Motors Co. is poised to exit Chapter 11 protection as soon as Friday morning, and to emerge as a leaner, more focused company after only 40 days in bankruptcy court.").

### C. *Liquidation of Old GM*

Meanwhile, Old GM remained in bankruptcy. Over the next several years, the bankruptcy court managed the process of satisfying liabilities that remained with Old GM (*i.e.*, not taken on by New GM).

The bankruptcy court set November 30, 2009 as the "bar date" for any individual or entity to file a proof of claim -- that is, to assert a claim as to Old GM's remaining assets. Old GM filed its first Chapter 11 liquidation plan on August 31, 2010, and amended it on December 8, 2010 and again on March 29, 2011. The proposed plan provided how claims against Old GM would be paid: secured claims, other priority claims, and environmental claims made by the government would be paid in full; unsecured claims (claims without an assurance of payment, such as in the form of a lien on property) would not.

Instead, under the plan, Old GM would establish GUC Trust, which would be administered by the Wilmington Trust Company. Once GUC Trust (and other like trusts) was established, Old GM would dissolve.

GUC Trust would hold certain Old GM assets -- including New GM stock and stock warrants that could be used to purchase shares at fixed prices, along with other financial instruments. Creditors with unsecured claims against

Old GM would receive these New GM securities and "units" of GUC Trust (the value of which would be pegged to the residual value of GUC Trust) on a pro rata basis in satisfaction of their claims. The Sale Agreement also imposed an "accordion feature" to ensure that GUC Trust would remain adequately funded in the event that the amount of unsecured claims grew too large. The accordion feature provided that if "the Bankruptcy Court makes a finding that the estimated aggregate allowed general unsecured claims against [Old GM's] estates exceed \$35 [billion], then [New GM] will . . . issue 10,000,000 additional shares of Common Stock . . . to [Old GM]." J. App. 1699.

On March 29, 2011, the bankruptcy court confirmed this liquidation plan. GUC Trust made quarterly distributions of its assets thereafter. The initial distribution released more than seventy-five percent of the New GM securities.

On February 8, 2012, the bankruptcy court ordered that no further claims against Old GM and payable by GUC Trust would be allowed unless the claim amended a prior claim, was filed with GUC Trust's consent, or was deemed timely filed by the bankruptcy court. As of March 31, 2014, GUC Trust had distributed roughly ninety percent of its New GM securities and nearly 32 million units of GUC Trust; the expected value of unsecured claims against Old

GM totaled roughly \$32 billion, not enough to trigger the accordion feature and involve New GM in the bankruptcy. The GM bankruptcy that began five years earlier appeared to be approaching its end.

### III. *Ignition Switch Defect*

On February 7, 2014, New GM first informed the National Highway Traffic Safety Administration ("NHTSA") that it would be recalling, among other vehicles, the 2005 Chevrolet Cobalt. A defect in the ignition switch could prevent airbags from deploying.

A later congressional staff report, which followed four days of testimony by New GM CEO Mary Barra before committees of the House of Representatives and Senate, described what could happen by referring to an actual tragic accident caused by the defect:<sup>13</sup> In October 2006, three teenagers

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<sup>13</sup> Staff of H. Comm. on Energy & Commerce, 113th Cong., *Report on the GM Ignition Switch Recall: Review of NHTSA 1* (Sept. 16, 2014); *Examining Accountability and Corporate Culture in Wake of the GM Recalls: Hearing Before the Subcomm. on Consumer Prot., Prod. Safety, & Ins. of the S. Comm. on Commerce, Sci., & Transp., 113th Cong.* (2014); *The GM Ignition Switch Recall: Investigation Update: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce, 113th Cong.* (2014); *Examining the GM Recall and NHTSA's Defect Investigation Process: Hearing Before the Subcomm. on Consumer Prot., Prod. Safety, & Ins. of the S. Comm. on Commerce, Sci., & Transp., 113th Cong.* (2014) [hereinafter "April 2, 2014 Senate Hearing"]; *The GM Ignition Switch Recall: Why Did It Take So Long?: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce, 113th Cong.* (2014).

were riding in a 2005 Chevrolet Cobalt when the driver lost control and the car careened off the side of the road. The vehicle flew into a telephone utility box and several trees. The airbags did not deploy, and two of the teenagers died.

From February until October 2014, New GM would issue over 60 recalls, with the number of affected vehicles in the United States alone surpassing 25 million. New GM hired attorney Anton Valukas of the law firm Jenner & Block to investigate; he did so and prepared an extensive report (the "Valukas Report").<sup>14</sup>

In 1997, Old GM sold three out of ten cars on the road in North America. *See General Motors Corp., Annual Report (Form 10-K) 60* (Mar. 20, 1998). Engineers began developing a new ignition switch that could be used in multiple vehicles across the GM brand, first by setting technical specifications for the switch and then by testing prototypes against those specifications.

Throughout testing, which lasted until 2002, prototypes consistently failed to meet technical specifications. In particular, a low amount of torque

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<sup>14</sup> Plaintiffs and New GM each extensively cite and quote to the Valukas Report as an account of the underlying facts regarding the ignition switch defect, and we do as well.

could cause the ignition switch to switch to "accessory" or "off."<sup>15</sup> A low torque threshold on an ignition switch would mean that little force -- perhaps even the bump of a stray knee -- would be needed to rotate the key in the switch from the "on" position to the "accessory" or "off" position.

Near the end of testing, an engineer commented on the ignition switch's lingering problems in an email: he was "tired of the switch from hell." J. App. 9696. Three months later, in May 2002, the ignition switch was approved for production, despite never having passed testing.

In the fall of 2002, Old GM began producing vehicles with the faulty ignition switch. Almost immediately, customers complained of moving stalls, sometimes at highway speeds -- instances where the engine and power steering and braking cut off while the car was in motion, leaving drivers to manually maneuver the vehicle, that is, without assistance of the car's power steering and braking systems.

Despite customer complaints, and grumblings in the press, Old GM classified the moving stall as a "non-safety issue." *Id.* at 9711. As Valukas put it, "on a scale of 1 (most severe) to 4 (least severe) . . . the problem could have been

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<sup>15</sup> Torque is a measure of twisting force -- it is generated, for example, when one twists off the cap of a soda bottle or tightens a bolt with a wrench.

designated a severity level 1 safety problem, [but] it was not." *Id.* Instead, the moving stall was assigned a severity level of 3. Old GM personnel considered the problem to be a matter of customer satisfaction, not safety. These personnel apparently also did not then fully realize that when a car shuts off, so does its airbags. But as early as August 2001, at least some Old GM engineers understood that turning off the ignition switch could prevent airbags from deploying.

Complaints about the ignition switch continued. Between 2004 and 2005, NHTSA began asking questions about engine stalls. In 2005, several media outlets also reported on the stalls. *See, e.g.,* Jeff Sabatini, *Making a Case for Keyless Ignitions*, N.Y. Times (June 19, 2005). Senior attorneys studied the stalls, but considered the risk to be "remote[]." J. App. 9734. At the same time, Old GM's product investigations unit recreated the ignition switch's issues by using only a heavy keychain to generate torque. Finally, in December 2005, Old GM issued a bulletin to dealers, but not to customers, warning them that "low ignition key cylinder torque" could cause cars to turn off. *Id.* at 9740. The bulletin did not mention that, as a result, cars could stall on the road.

Then came reports of fatalities. In late 2005 through 2006, news of deaths from airbag non-deployments in crashes where airbags should have



deployed reached the desks of Old GM's legal team. Around April 2006, Old GM engineers decided on a design change of the ignition switch to increase the torque. Old GM engineers did so quietly, without changing the ignition switch's part number, a change that would have signaled that improvements or adjustments had been made.

In February 2007, a Wisconsin state trooper's report made its way into the files of Old GM's legal department: "The two front seat airbags did not deploy. It appears that the ignition switch had somehow been turned from the run position to accessory prior to the collision with the trees." *Id.* at 9764.

NHTSA similarly brought to Old GM's attention reported airbag non-deployments. *See* Transportation Research Center, Indiana University, *On-Site Air Bag Non-Deployment Investigation 7* (Apr. 25, 2007, rev. Mar. 31, 2008). As more incidents with its cars piled up, Old GM finally drafted an updated bulletin to dealers warning them of possible "stalls," but never sent it out.

Old GM internally continued to investigate. By May 2009, staff had figured out that non-deployment of airbags in these crashes was attributable to a sudden loss of power. They believed that one of the two "most likely explanation[s] for the power mode signal change was . . . a problem with the

Ignition Switch." J. App. 9783. By June 2009, Old GM engineers had implemented a change to the ignition key, hoping to fix the problem once and for all. One engineer lamented that "[t]his issue has been around since man first lumbered out of [the] sea and stood on two feet." *Id.* at 9781.

Later, the Valukas Report commented on the general attitude at Old GM. For eleven years, "GM heard over and over from various quarters -- including customers, dealers, the press, and their own employees -- that the car's ignition switch led to moving stalls, group after group and committee after committee within GM that reviewed the issue failed to take action or acted too slowly. Although everyone had responsibility to fix the problem, nobody took responsibility." J. App. 9650.

The Valukas Report recounted aspects of GM's corporate culture. With the "GM salute," employees would attend action meetings and literally cross their arms and point fingers at others to shirk responsibility. With the "GM nod," employees would (again) literally nod in agreement to endorse a proposed plan, understanding that they and others had no intention of following through. Finally, the Report described how GM employees, instead of taking action, would claim the need to keep searching for the "root cause" of the moving stalls

and airbag non-deployments. This "search for root cause became a basis for doing nothing to resolve the problem for years." *Id.* at 9906.

Indeed, New GM would not begin recalling cars for ignition switch defects until February 2014. Soon after New GM's initial recall, individuals filed dozens of class actions lawsuits, claiming that the ignition switch defect caused personal injuries and economic losses, both before and after the § 363 sale closed.<sup>16</sup> New GM sought to enforce the Sale Order, invoking the liability shield to hold New GM "free and clear" of various claims. This meant that when it came to Old GM cars New GM would pay for post-closing personal injuries, make repairs, and follow Lemon Laws, but nothing else. The amount of purportedly barred liabilities was substantial -- an estimated \$7 to \$10 billion in economic losses, not to mention damages from pre-closing accidents.

#### IV. *Proceedings Below*

On April 21, 2014, Steven Groman and others (the "Groman Plaintiffs") initiated an adversary proceeding against New GM in the bankruptcy court below, asserting economic losses arising from the ignition switch defect.

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<sup>16</sup> Those class actions are consolidated before a district judge in the United States District Court for the Southern District of New York. *See In re General Motors LLC Ignition Switch Litigation*, No. 14-MD-2543 (S.D.N.Y.) (Furman, J.).

The same day, New GM moved to enforce the Sale Order to enjoin those claims, as well as claims in other ignition switch actions then being pursued against New GM.

Other plaintiffs allegedly affected by the Sale Order included classes of individuals who had suffered pre-closing injuries arising from the ignition switch defect ("Pre-Closing Accident Plaintiffs"), economic losses arising from the ignition switch defect in Old GM cars ("Ignition Switch Plaintiffs"), and damages arising from defects other than the ignition switch in Old GM cars ("Non-Ignition Switch Plaintiffs").<sup>17</sup> Included within the Ignition Switch Plaintiffs were individuals who had purchased Old GM cars secondhand after the § 363 sale closed ("Used Car Purchasers").

On appeal, several orders are before us. First, the Non-Ignition Switch Plaintiffs filed a motion, asserting, among other things, that the bankruptcy court lacked jurisdiction to enforce the Sale Order. On August 6, 2014, the bankruptcy court denied that motion. *In re Motors Liquidation Co.* ("MLC I"), 514 B.R. 377 (Bankr. S.D.N.Y. 2014) (Gerber, J.).

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<sup>17</sup> On August 1, 2014, New GM filed motions to enforce the Sale Order against the Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs, who entered the bankruptcy proceedings later.

Second, after receiving further briefing and hearing oral argument on the motion to enforce, on April 15, 2015 the bankruptcy court decided to enforce the Sale Order in part and dismiss any would-be claims against GUC Trust because relief would be equitably moot. *In re Motors Liquidation Co.* ("MLC II"), 529 B.R. 510 (Bankr. S.D.N.Y. 2015) (Gerber, J.). The bankruptcy court first determined plaintiffs lacked notice consistent with procedural due process. *Id.* at 540-60. In particular, the bankruptcy court found that the ignition switch claims were known to or reasonably ascertainable by Old GM prior to the sale, and thus plaintiffs were entitled to actual notice, as opposed to the mere publication notice that they received. *Id.* at 556-60. The bankruptcy court found, however, that with one exception plaintiffs had not been "prejudiced" by this lack of notice -- the exception being claims stemming from New GM's own wrongful conduct in concealing defects (so-called "independent claims"). *Id.* at 560-74. In other words, the bankruptcy court held that New GM could not be sued -- in bankruptcy court or elsewhere -- for ignition switch claims that otherwise could have been brought against Old GM, unless those claims arose from New GM's own wrongful conduct. *Id.* at 574-83.

In the same decision, the bankruptcy court addressed arguments by GUC Trust that it should not be held as a source for relief either. Applying the factors set out in *In re Chateaugay Corp.* ("*Chateaugay III*"), 10 F.3d 944 (2d Cir. 1993), the bankruptcy court concluded that relief for any late claims against GUC Trust was equitably moot, as the plan had long been substantially consummated. *MLC II*, 529 B.R. at 583-92. Finally, the bankruptcy court outlined the standard for any future fraud on the court claims. *Id.* at 592-97. With these issues resolved, the bankruptcy court certified its decision for appeal to this Court pursuant to 28 U.S.C. § 158. *Id.* at 597-98.

Third, the bankruptcy court issued another decision after the parties disagreed on the form of judgment and other ancillary issues. On May 27, 2015, the bankruptcy court clarified that the Non-Ignition Switch Plaintiffs would be bound by the judgment against the other plaintiffs, but would have seventeen days following entry of judgment to object. *In re Motors Liquidation Co.* ("*MLC III*"), 531 B.R. 354 (Bankr. S.D.N.Y. 2015) (Gerber, J.). The bankruptcy court left open the question of whether Old GM knew of other defects.

On June 1, 2015, the bankruptcy court entered judgment against all plaintiffs and issued an order certifying the judgment for direct appeal.

Following briefing by the Non-Ignition Switch Plaintiffs, on July 22, 2015, the bankruptcy court rejected their objections to the judgment.

New GM, GUC Trust, and the four groups of plaintiffs described above -- the Groman Plaintiffs, Ignition Switch Plaintiffs, Non-Ignition Switch Plaintiffs, and Pre-Closing Accident Plaintiffs -- appealed.<sup>18</sup> We turn to these appeals.

### *DISCUSSION*

The Code permits a debtor to sell substantially all of its assets to a successor corporation through a § 363 sale, outside of the normal reorganization process. Here, no party seeks to undo the sale of Old GM's assets to New GM, as executed through the Sale Order.<sup>19</sup> Instead, plaintiffs challenge the extent to which the bankruptcy court may absolve New GM, as a successor corporation, of Old GM's liabilities. *See generally* 3 *Collier on Bankruptcy* ¶ 363.02[2] (Alan N.

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<sup>18</sup> On appeal, the Non-Ignition Switch Plaintiffs are joined by certain ignition switch and pre-closing accident plaintiffs and call themselves the "*Elliot, Sesay, and Bledsoe* Plaintiffs." That group also represents two other appellants captioned above: Berenice Summerville and Doris Powledge Phillips. For ease of reference, in the context of this appeal, we will continue to call the group the "Non-Ignition Switch Plaintiffs."

<sup>19</sup> Indeed, the bankruptcy court's opinion in *GM*, 407 B.R. 463, which approved the § 363 sale, has been reviewed on appeal has three times: a stay pending appeal was denied in *In re General Motors Corp.*, No. M 47(LAK), 2009 WL 2033079 (S.D.N.Y. July 9, 2009), and the opinion was affirmed in *In re Motors Liquidation Co.*, 428 B.R. 43 (S.D.N.Y. 2010), and in *In re Motors Liquidation Co.*, 430 B.R. 65 (S.D.N.Y. 2010).

Resnick & Harry J. Sommer eds., 16th ed. 2013) [hereinafter "*Collier on Bankruptcy*"] (noting that "use of a section 363 sale probably reached its zenith" with the GM bankruptcy). In particular, they dispute whether New GM may use the Sale Order's "free and clear" provision to shield itself from claims primarily arising out of the ignition switch defect and other defects.

The decisions below generate four issues on appeal: (1) the bankruptcy court's jurisdiction to enforce the Sale Order, (2) the scope of the power to sell assets "free and clear" of all interests, (3) the procedural due process requirements with respect to notice of such a sale, and (4) the bankruptcy court's ruling that would-be claims against GUC Trust are equitably moot.

### **I. *Jurisdiction***

We first address the bankruptcy court's subject matter jurisdiction. New GM argued below that successor liability claims against it should be enjoined, and the bankruptcy court concluded as a threshold matter that it had jurisdiction to enforce the Sale Order. *See MLC I*, 514 B.R. at 380-83. The Non-Ignition Switch Plaintiffs challenge jurisdiction: (1) as a whole to enjoin claims against New GM, (2) with respect to independent claims, which stem from New GM's own wrongful conduct, and (3) to issue a successive injunction. We review



*de novo* rulings as to the bankruptcy court's jurisdiction. See *In re Petrie Retail, Inc.*, 304 F.3d 223, 228 (2d Cir. 2002).

First, as to jurisdiction broadly, "[t]he jurisdiction of the bankruptcy courts, like that of other federal courts, is grounded in, and limited by, statute." *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 (1995); see 28 U.S.C. § 1334. Bankruptcy courts may exercise jurisdiction, through referral from the district court, over three broad categories of proceedings: those "arising under title 11" of the Code, those "arising in . . . a case under title 11," and those "related to a case under title 11." 28 U.S.C. § 157(a). Proceedings "arising under title 11, or arising in a case under title 11," are deemed "core proceedings." *Stern v. Marshall*, 564 U.S. 462, 476 (2011) (quoting 28 U.S.C. § 157(b)). In those proceedings, bankruptcy courts retain comprehensive power to resolve claims and enter orders or judgments. See *In re Millenium Seacarriers, Inc.*, 419 F.3d 83, 96 (2d Cir. 2005).

"[T]he meaning of the statutory language 'arising in' may not be entirely clear." *Baker v. Simpson*, 613 F.3d 346, 351 (2d Cir. 2010). At a minimum, a bankruptcy court's "arising in" jurisdiction includes claims that "are not based on any right expressly created by [T]itle 11, but nevertheless, would have no

existence outside of the bankruptcy." *Id.* (quoting *In re Wood*, 825 F.2d 90, 97 (5th Cir. 1987)).

A bankruptcy court's decision to interpret and enforce a prior sale order falls under this formulation of "arising in" jurisdiction. An order consummating a debtor's sale of property would not exist but for the Code, *see* 11 U.S.C. § 363(b), and the Code charges the bankruptcy court with carrying out its orders, *see id.* § 105(a) (providing that bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title"). Hence, a bankruptcy court "plainly ha[s] jurisdiction to interpret and enforce its own prior orders." *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009); *see Millenium Seacarriers*, 419 F.3d at 96 ("A bankruptcy court retains post-confirmation jurisdiction to interpret and enforce its own orders, particularly when disputes arise over a bankruptcy plan of reorganization." (quoting *Petrie Retail*, 304 F.3d at 230)). That is what happened here. The bankruptcy court first interpreted the "free and clear" provision that barred successor liability claims -- a provision that was integral to resolving Old GM's bankruptcy -- and then determined whether to enforce that provision.

Second, the Non-Ignition Switch Plaintiffs specify that the bankruptcy court lacked jurisdiction over independent claims. Even though the bankruptcy court ultimately did not enjoin independent claims, we address this argument because it implicates subject matter jurisdiction. In any event, the argument is misguided. The Sale Order, on its face, does not bar independent claims against New GM; instead, it broadly transfers assets to New GM "free and clear of liens, claims, encumbrances, and other interests . . . , including rights or claims . . . based on any successor or transferee liability." J. App. 1621. By making the argument that the bankruptcy court could not enjoin independent claims through the Sale Order, the Non-Ignition Switch Plaintiffs already assume that the bankruptcy court indeed has jurisdiction to interpret the Sale Order to determine whether it covers independent claims and to hear a motion to enforce in the first place.

Third, the Non-Ignition Switch Plaintiffs argue that the bankruptcy court lacked power to issue a so-called successive injunction. In certain parts of the Sale Order, the bankruptcy court had included language that successor liability claims would be "forever prohibited and enjoined." J. App. 1649. But New GM was not seeking an injunction to stop plaintiffs from violating that

prior injunction; New GM wanted the bankruptcy court to confirm that the Sale Order covered *these* plaintiffs. In other words, New GM "did not seek a new injunction but, rather, '[sought] to enforce an injunction already in place.'" *In re Kalikow*, 602 F.3d 82, 93 (2d Cir. 2010) (quoting *In re Texaco Inc.*, 182 B.R. 937, 945 (Bankr. S.D.N.Y. 1995)). In such situations, bankruptcy courts have jurisdiction to decide a "motion s[ee]king enforcement of a pre-existing injunction issued as part of the bankruptcy court's sale order." *Petrie Retail*, 304 F.3d at 230.

Accordingly, we agree that the bankruptcy court had jurisdiction to interpret and enforce the Sale Order. *See MLC I*, 514 B.R. at 380-83.

## II. *Scope of "Free and Clear" Provision*

We turn to the scope of the Sale Order. The Sale Order transferred assets from Old GM to New GM "free and clear of liens, claims, encumbrances, and other interests . . . , including rights or claims . . . based on any successor or transferee liability." J. App. 1621. The bankruptcy court did not explicitly address what claims were covered by the Sale Order.<sup>20</sup>

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<sup>20</sup> The bankruptcy court mentioned, however, that claims based on New GM's "independently wrongful, and otherwise actionable, conduct" could not be categorized as claims that could be assumed by New GM or retained by Old GM via the Sale Order. *MLC II*, 529 B.R. at 583. But the bankruptcy court did not explicitly address whether it still considered those claims to be covered by the Sale Order.

We address the scope of the Sale Order because it implicates our procedural due process analysis that follows. If the Sale Order covers certain claims, then we would have to consider whether plaintiffs' due process rights are violated by applying the "free and clear" clause to those claims. If the Sale Order did not cover certain claims, however, then those claims could not be enjoined by enforcing the Sale Order and due process concerns would not be implicated. We interpret the Sale Order *de novo* to determine what claims are barred. *See In re Duplan Corp.*, 212 F.3d 144, 151 (2d Cir. 2000); *see also Petrie Retail*, 304 F.3d at 229 (noting instance where enforcement first required interpretation of prior order).

**A. *Applicable Law***

The Code allows the trustee or debtor-in-possession to "use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A sale pursuant to § 363(b) may be made "free and clear of any interest in such property" if any condition on a list of conditions is met. *Id.* § 363(f). "Yet the Code does not define the concept of 'interest,' of which the property may be sold free and clear," 3 *Collier on Bankruptcy* ¶ 363.06[1], nor does it express the extent to which "claims" fall within the ambit of "interests."

New GM asserts that *In re Chrysler LLC*, 576 F.3d 108, 126 (2d Cir. 2009), resolved that successor liability claims are interests. New GM Br. 75.<sup>21</sup> But *Chrysler* was vacated by the Supreme Court after it became moot during the certiorari process and remanded with instructions to dismiss the appeal as moot. See *Ind. State Police Pension Tr. v. Chrysler LLC*, 558 U.S. 1087 (2009). The Supreme Court vacated *Chrysler* pursuant to *United States v. Munsingwear, Inc.*, 340 U.S. 36, 41 (1950), which "prevent[s] a judgment, unreviewable because of mootness, from spawning any legal consequences." See *Russman v. Bd. of Educ. of Enlarged City Sch. Dist.*, 260 F.3d 114, 121-22 n.2 (2d Cir. 2001) ("[V]acatur eliminates an appellate precedent that would otherwise control decision on a contested question throughout the circuit."). We had not addressed the issue before *Chrysler*, and now that case is no longer controlling precedent.<sup>22</sup> See 576 F.3d at 124 ("We have never addressed the scope of the language 'any interest in such property,' and the statute does not define the term.").

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<sup>21</sup> New GM also cites a non-precedential summary order on this issue. See *Douglas v. Stamco*, 363 F. App'x 100 (2d Cir. 2010).

<sup>22</sup> When the bankruptcy court determined that successor liability claims could constitute interests, *Chrysler* had not yet been vacated. See *GM*, 407 B.R. at 505 ("*Chrysler* is not distinguishable in any legally cognizable respect.").

Rather than formulating a single precise definition for "any interest in such property," courts have continued to address the phrase "on a case-by-case basis." *In re PBBPC, Inc.*, 484 B.R. 860, 867 (B.A.P. 1st Cir. 2013). At minimum, the language in § 363(f) permits the sale of property free and clear of *in rem* interests in the property, such as liens that attach to the property. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 288 (3d Cir. 2003). But courts have permitted a "broader definition that encompasses other obligations that may flow from ownership of the property." 3 *Collier on Bankruptcy* ¶ 363.06[1]. Sister courts have held that § 363(f) may be used to bar a variety of successor liability claims that relate to ownership of property: an "interest" might encompass Coal Act obligations otherwise placed upon a successor purchasing coal assets, *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-82 (4th Cir. 1996), travel vouchers issued to settle an airline's discrimination claims in a sale of airline assets, *Trans World Airlines*, 322 F.3d at 288-90, or a license for future use of intellectual property when that property is sold, *FutureSource LLC v. Reuters Ltd.*, 312 F.3d 281, 285 (7th Cir. 2002). See generally *Precision Indus., Inc. v. Qualitech Steel SBQ, LLC*, 327 F.3d 537, 545 (7th Cir. 2003) ("[T]he term 'interest' is a broad term no doubt selected by Congress to avoid 'rigid and technical definitions drawn from other areas of the

law." (quoting *Russello v. United States*, 464 U.S. 16, 21 (1983))). In these instances, courts require "a relationship between the[] right to demand . . . payments from the debtors and the use to which the debtors had put their assets." *Trans World Airlines*, 322 F.3d at 289.

We agree that successor liability claims can be "interests" when they flow from a debtor's ownership of transferred assets. See 3 *Collier in Bankruptcy* ¶¶ 363.06[1], [7]; *Trans World Airlines*, 322 F.3d at 289. But successor liability claims must also still qualify as "claims" under Chapter 11. Though § 363(f) does not expressly invoke the Chapter 11 definition of "claims," see 11 U.S.C. § 101(5), it makes sense to "harmonize" Chapter 11 reorganizations and § 363 sales "to the extent permitted by the statutory language." *Chrysler*, 576 F.3d at 125; see *Lionel*, 722 F.2d at 1071 ("[S]ome play for the operation of both § 363(b) and Chapter 11 must be allowed for.").<sup>23</sup> Here, the bankruptcy court's power to bar "claims" in a quick § 363 sale is plainly no broader than its power in a traditional Chapter 11 reorganization. Compare 11 U.S.C. § 363(f) ("free and clear of any interest in such

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<sup>23</sup> Although *Chrysler* was vacated on grounds of mootness, it still "constitute[s] persuasive authority." *Anderson v. Rochester-Genesee Reg'l Transp. Auth.*, 337 F.3d 201, 208 n.5 (2d Cir. 2003). Both our Circuit and the Third Circuit have continued to cite *Chrysler* favorably. See *In re N. New Eng. Tel. Operations LLC*, 795 F.3d 343, 346, (2d Cir. 2015); *In re Jevic Holding Corp.*, 787 F.3d 173, 188-89 (3d Cir. 2015).



property"), *with* § 1141(c) ("free and clear of all claims and interests"). We thus consider what claims may be barred under Chapter 11 generally.

Section 101(5) defines "claim" as any "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." 11 U.S.C. § 101(5). A claim is (1) a right to payment (2) that arose before the filing of the petition. *See Pension Ben. Guar. Corp. v. Oneida Ltd.*, 562 F.3d 154, 157 (2d Cir. 2009). If the right to payment is contingent on future events, the claim must instead "result from pre-petition conduct fairly giving rise to that contingent claim." *In re Chateaugay Corp.* ("*Chateaugay I*"), 944 F.2d 997, 1005 (2d Cir. 1991) (internal quotation marks omitted).

This Court has not decided, however, "the difficult case of pre-petition conduct that has not yet resulted in detectable injury, much less the extreme case of pre-petition conduct that has not yet resulted in any tortious consequence to a victim." *Id.* at 1004. *Chateaugay I* considered a hypothetical bankrupt bridge building company, which could predict that out of the 10,000 bridges it built, one would one day fail, causing deaths and other injuries. *Id.* at

1003. If that bridge did fail, the individuals might have tort claims resulting from pre-petition conduct, namely the building of the bridge.

Recognizing these claims would engender "enormous practical and perhaps constitutional problems." *Id.* Thus, "'claim' cannot be extended to include . . . claimants whom the record indicates were completely unknown and unidentified at the time [the debtor] filed its petition and whose rights depended entirely on the fortuity of future occurrences." *Lemelle v. Universal Mfg. Corp.*, 18 F.3d 1268, 1277 (5th Cir. 1994); see *In re Chateaugay Corp.* ("*Chateaugay IV*"), 53 F.3d 478, 497 (2d Cir. 1995) (stating that, in "common sense," "claim" is "not infinite"). To avoid any practical and constitutional problems, courts require some minimum "contact," *Chateaugay I*, 944 F.2d at 1003-04, or "relationship," *Chateaugay IV*, 53 F.3d at 497, that makes identifiable the individual with whom the claim does or would rest.

To summarize, a bankruptcy court may approve a § 363 sale "free and clear" of successor liability claims if those claims flow from the debtor's ownership of the sold assets. Such a claim must arise from a (1) right to payment (2) that arose before the filing of the petition or resulted from pre-petition conduct fairly giving rise to the claim. Further, there must be some contact or

relationship between the debtor and the claimant such that the claimant is identifiable.

**B. *Application***

We apply these principles to: (1) pre-closing accident claims, (2) economic loss claims arising from the ignition switch defect or other defects, (3) independent claims relating only to New GM's conduct, and (4) Used Car Purchasers' claims. The bankruptcy court assumed that the Sale Order's broad language suggested that all of these claims fell within the scope of the "free and clear" provision. We hold, however, that the first two sets of claims are covered by the Sale Order but that the latter two sets of claims are not.

First, the pre-closing accident claims clearly fall within the scope of the Sale Order. Those claims directly relate to the ownership of the GM automaker's business -- Old GM built cars with ignition switch defects. And those plaintiffs' claims are properly thought of as tort claims that arose before the filing of the petition; indeed, the claims arise from accidents that occurred pre-closing involving Old GM cars.<sup>24</sup>

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<sup>24</sup> To the extent that Pre-Closing Accident Plaintiffs assert claims arising after the petition but before the § 363 sale closing, no party on appeal suggests that we treat claims in this timeframe differently. In any event, those claims are contingent on

Second, the economic loss claims arising from the ignition switch defect or other defects present a closer call. Like the claims of Pre-Closing Accident Plaintiffs, these claims flow from the operation of Old GM's automaker business. These individuals also, by virtue of owning Old GM cars, had come into contact with the debtor prior to the bankruptcy petition. Yet the ignition switch defect (and other defects) were only revealed some five years later.

GUC Trust thus asserts that there was no right to payment prior to the petition. We disagree. The economic losses claimed by these individuals were "contingent" claims. 11 U.S.C. § 101(5). That is, the ignition switch defect was there, but was not yet so patent that an individual could, as a practical matter, bring a case in court. The contingency standing in the way was Old GM telling plaintiffs that the ignition switch defect existed. In other words, Old GM's creation of the ignition switch defect fairly gave rise to these claims, even if the claimants did not yet know. *See Chateaugay I*, 944 F.2d at 1005.

Third, however, the independent claims do not meet the Code's limitation on claims. By definition, independent claims are claims based on New GM's own post-closing wrongful conduct. Though the parties do not lay out the

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the accident occurring and "result from pre-petition conduct fairly giving rise to [a] contingent claim." *Chateaugay I*, 944 F.2d at 1005 (internal quotation marks omitted).

whole universe of possible independent claims, we can imagine that some claims involve misrepresentations by New GM as to the safety of Old GM cars. These sorts of claims are based on New GM's *post*-petition conduct, and are not claims that are based on a right to payment that arose before the filing of petition or that are based on pre-petition conduct. Thus, these claims are outside the scope of the Sale Order's "free and clear" provision.

Fourth, the Sale Order likewise does not cover the Used Car Purchasers' claims. The Used Car Purchasers were individuals who purchased Old GM cars *after* the closing, without knowledge of the defect or possible claim against New GM. They had no relation with Old GM prior to bankruptcy. Indeed, as of the bankruptcy petition there were an unknown number of unknown individuals who would one day purchase Old GM vehicles secondhand. There could have been no contact or relationship -- actual or presumed -- between Old GM and these specific plaintiffs, who otherwise had no awareness of the ignition switch defect or putative claims against New GM. We cannot, consistent with bankruptcy law, read the Sale Order to cover their claims. *See Chateaugay I*, 944 F.2d at 1003-04 (calling such a reading "absurd").

New GM argues that "modifying" the Sale Order would "knock the props out of the foundation on which the [Sale Order] was based" or otherwise be unlawful. New GM Br. 77 (internal quotation marks omitted). But we do not *modify* the Sale Order. Instead, we merely interpret the Sale Order in accordance with bankruptcy law. Indeed, by filing a motion to enforce, New GM in effect asked for the courts to interpret the Sale Order. *See Petrie Retail*, 304 F.3d at 229.

In sum, the "free and clear" provision covers pre-closing accident claims and economic loss claims based on the ignition switch and other defects. It does not cover independent claims or Used Car Purchasers' claims. Accordingly, we affirm the bankruptcy court's decision not to enjoin independent claims, *see MLC II*, 529 B.R. at 568-70, and reverse its decision to enjoin the Used Car Purchasers' claims, *see id.* at 570-72.

### **III. *Procedural Due Process***

The Sale Order covers the pre-closing accident claims and economic loss claims based on the ignition switch and other defects. The Sale Order, if enforced, would thus bar those claims. Plaintiffs contend on appeal that enforcing the Sale Order would violate procedural due process. We address two issues: (1) what notice plaintiffs were entitled to as a matter of procedural due

process, and (2) if they were provided inadequate notice, whether the bankruptcy court erred in denying relief on the basis that most plaintiffs were not "prejudiced."

We review factual findings for clear error and legal conclusions, including interpretations of the Constitution, *de novo*. *In re Barnett*, 737 F.3d 238, 246 (2d Cir. 2013). Our clear error standard is a deferential one, and if the bankruptcy court's "account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *Amadeo v. Zant*, 486 U.S. 214, 223 (1988) (quoting *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985)).

#### **A. Notice**

The bankruptcy court first concluded that plaintiffs were not provided notice as required by procedural due process. *See MLC II*, 529 B.R. at 555-60. The bankruptcy court held that because Old GM knew or with reasonable diligence should have known of the ignition switch claims, plaintiffs were entitled to actual or direct mail notice, but received only publication notice.

*See id.* at 557-60. The parties dispute the extent of Old GM's knowledge of the ignition switch problem.

### 1. *Applicable Law*

The Due Process Clause provides, "No person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Certain procedural protections attach when "deprivations trigger due process." *Connecticut v. Doehr*, 501 U.S. 1, 12 (1991). Generally, legal claims are sufficient to constitute property such that a deprivation would trigger due process scrutiny. *See N.Y. State Nat'l Org. for Women v. Pataki*, 261 F.3d 156, 169-70 (2d Cir. 2001).

Once due process is triggered, the question becomes what process is due. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Courts ask "whether the state acted reasonably in selecting means likely to inform persons affected, not whether each property owner actually received notice." *Weigner v. City of New York*, 852 F.2d 646, 649 (2d



Cir. 1988). Notice is adequate if "[t]he means employed [are] such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Mullane*, 339 U.S. at 315.

This requirement also applies to bankruptcy proceedings. See *Martin v. Wilks*, 490 U.S. 755, 762 n.2 (1989), *superseded by statute on other grounds*, Civil Rights Act of 1991, Pub.L. No. 102-166, 105 Stat. 1071. Indeed, a fundamental purpose of bankruptcy is to discharge, restructure, or impair claims against the debtor in an orderly fashion. See *Lines v. Frederick*, 400 U.S. 18, 19 (1970). "The general rule that emerges . . . is that notice by publication is not enough with respect to a person whose name and address are known or very easily ascertainable and whose legally protected interests are directly affected by the proceedings in question." *Schroeder v. City of New York*, 371 U.S. 208, 212-13 (1962); accord *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800 (1983). In other words, adequacy of notice "turns on what the debtor . . . knew about the claim or, with reasonable diligence, should have known." *DPWN Holdings (USA), Inc. v. United Air Lines, Inc.*, 747 F.3d 145, 150 (2d Cir. 2014) (citing *Chemetron Corp. v. Jones*, 72 F.3d 341, 345-46 (3d Cir. 1995)). If the debtor knew or reasonably should have known about the claims, then due process entitles potential claimants to

actual notice of the bankruptcy proceedings, but if the claims were unknown, publication notice suffices. *Chemetron*, 72 F.3d at 345-46.

If a debtor reveals in bankruptcy the claims against it and provides potential claimants notice consistent with due process of law, then the Code affords vast protections. Both § 1141(c) and § 363(f) permit "free and clear" provisions that act as liability shield. These provisions provide enormous incentives for a struggling company to be forthright. But if a debtor does not reveal claims that it is aware of, then bankruptcy law cannot protect it. Courts must "limit[] the opportunity for a completely unencumbered new beginning to the 'honest but unfortunate debtor.'" *Grogan v. Garner*, 498 U.S. 279, 286-87 (1991) (quoting *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934)).

## 2. *Application*

The parties do not dispute that plaintiffs received only publication notice. The question is whether they were entitled to more. The bankruptcy court found that because Old GM knew or reasonably should have known about the ignition switch defect prior to bankruptcy, it should have provided direct mail notice to vehicle owners. We find no clear error in this factual finding.

As background, federal law requires that automakers keep records of the first owners of their vehicles. 49 U.S.C. § 30117(b)(1) ("A manufacturer of a motor vehicle . . . shall cause to be maintained a record of the name and address of the first purchaser of each vehicle . . ."). This provision facilitates recalls and other consequences of the consumer-automaker relationship. Thus, to the extent that Old GM knew of defects in its cars, it would also necessarily know the identity of a significant number of affected owners.

The facts paint a picture that Old GM did nothing, even as it knew that the ignition switch defect impacted consumers. From its development in 1997, the ignition switch never passed Old GM's own technical specifications. Old GM knew that the switch was defective, but it approved the switch for millions of cars anyway.

Once the ignition switch was installed, Old GM almost immediately received various complaints. News outlets reported about the faulty ignition switch. NHTSA approached Old GM about moving stalls and airbag non-deployments. A police report, which Old GM's legal team possessed, linked these breakdowns to a faulty ignition switch. Old GM even considered warning dealers (but not consumers) about moving stalls. By May 2009, at the latest, Old

GM personnel had essentially concluded that the ignition switch, moving stalls, and airbag non-deployments were related. Considering the airbag issues, they believed that one of the two "most likely explanation[s] for the power mode signal change was . . . a problem with the Ignition Switch." J. App. 9783.

A bankruptcy court could reasonably read from this record that Old GM knew about the ignition switch defect. Old GM knew that the defect caused stalls and had linked the airbag non-deployments to the defect by May 2009.

Even assuming the bankruptcy court erred in concluding that Old GM *knew*, Old GM -- if reasonably diligent -- surely *should have known* about the defect. Old GM engineers should have followed up when they learned their ignition switch did not initially pass certain technical specifications. Old GM lawyers should have followed up when they heard disturbing reports about airbag non-deployments or moving stalls. Old GM product safety teams should have followed up when they were able to recreate the ignition switch defect with ease after being approached by NHTSA. If any of these leads had been diligently pursued in the seven years between 2002 and 2009, Old GM likely would have learned that the ignition switch defect posed a hazard for vehicle owners.

Such "reckless disregard of the facts [is] sufficient to satisfy the requirement of knowledge." *McGinty v. State*, 193 F.3d 64, 70 (2d Cir. 1999). In the face of all the reports and complaints of faulty ignition switches, moving stalls, airbag non-deployments, and, indeed, serious accidents, and in light of the conclusions of its own personnel, Old GM had an obligation to take steps to "acquire full or exact knowledge of the nature and extent" of the defect. *United States v. Macias*, 786 F.3d 1060, 1062 (7th Cir. 2015). Under these circumstances, Old GM had a duty to identify the cause of the problem and fix it. Instead, the Valukas Report recounts a corporate culture that sought to pin responsibility on others and a Sisyphean search for the "root cause."

Further, even if the precise linkage between the ignition switch defect and moving stalls and airbag non-deployments was unclear, Old GM had enough knowledge. At minimum, Old GM knew about moving stalls and airbag non-deployments in certain models, and should have revealed those facts in bankruptcy. Those defects would still be the basis of "claims," even if the root cause (the ignition switch) was not clear.

New GM argues in response that because plaintiffs' claims were "contingent," those individuals were "unknown" creditors as a matter of law. But

contingent claims are still claims, 11 U.S.C. § 101(5), and claimants are entitled to adequate notice if the debtor knows of the claims. Moreover, as discussed above, the only contingency was Old GM telling owners about the ignition switch defect -- a contingency wholly in Old GM's control and without bearing as to *Old GM's* own knowledge. New GM essentially asks that we reward debtors who conceal claims against potential creditors. We decline to do so. *See Grogan*, 498 U.S. at 286-87.

Finally, we address a theme in this case that the GM bankruptcy was extraordinary because a quick § 363 sale was required to preserve the value of the company and to save it from liquidation. *See New GM Br. 34* ("Time was of the essence, and costs were a significant factor."). Forty days was indeed quick for bankruptcy and previously unthinkable for one of this scale. While the desire to move through bankruptcy as expeditiously as possible was laudable, Old GM's precarious situation and the need for speed did not obviate basic constitutional principles. Due process applies even in a company's moment of crisis. *Cf. Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 425 (1934) ("The Constitution was adopted in a period of grave emergency.").

We find no clear error in the bankruptcy court's finding that Old GM knew or should have known with reasonable diligence about the defect. *See MLC II*, 529 B.R. at 556-60. Individuals with claims arising out of the ignition switch defect were entitled to notice by direct mail or some equivalent, as required by procedural due process.

**B. "Prejudice"**

After concluding that Old GM did not provide adequate notice, the bankruptcy court nonetheless enforced the Sale Order. *See id.* at 565-73. The bankruptcy court held that "prejudice" is an "essential element" of procedural due process and that plaintiffs were not prejudiced -- except as to independent claims -- because the bankruptcy court would have approved the Sale Order even if plaintiffs were provided adequate notice. *Id.* at 565. The parties dispute whether "prejudice" is required and, if it is, whether there is prejudice here.

**1. Applicable Law**

The bankruptcy court held that "prejudice" is a requirement of the Due Process Clause and that even if inadequate notice deprived an individual of property without a meaningful opportunity to be heard, there is no prejudice if in hindsight the outcome would have been the same with adequate notice. *Id.*

Some courts have indeed held that "a party who claims to be aggrieved by a violation of procedural due process must show prejudice." *Perry v. Blum*, 629 F.3d 1, 17 (1st Cir. 2010). Other courts have held otherwise that "a due process violation cannot constitute harmless error." *In re New Concept Hous., Inc.*, 951 F.2d 932, 937 n.7 (8th Cir. 1991); see *Fuentes v. Shevin*, 407 U.S. 67, 87 (1972) ("The right to be heard does not depend upon an advance showing that one will surely prevail at the hearing.").<sup>25</sup> Courts have concluded that a "free and clear" clause was unenforceable because of lack of notice and a hearing in accordance with

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<sup>25</sup> See, e.g., *McNabb v. Comm'r Ala. Dep't of Corr.*, 727 F.3d 1334, 1347 (11th Cir. 2013) ("Our cases have long held that certain procedural due process violations, such as the flat-out denial of the right to be heard on a material issue, can never be harmless."); *Kim v. Hurston*, 182 F.3d 113, 119 (2d Cir. 1999) (commenting that even though the "minimal hearing that procedural due process requires would have done [the plaintiff] little good since she could not have realistically contested the changed reason," that "[n]evertheless, the procedural due process requirement[s] . . . must be observed"); *Lane Hollow Coal Co. v. Dir., Office of Workers' Compensation Programs*, 137 F.3d 799, 806 (4th Cir. 1998) ("[A] just result is not enough."); *In re Boomgarden*, 780 F.2d 657, 661 (7th Cir. 1985) ("In bankruptcy proceedings, both debtors and creditors have a constitutional right to be heard on their claims, and the denial of that right to them is the denial of due process which is never harmless error." (internal quotation marks omitted)); *In re George W. Myers Co.*, 412 F.2d 785, 786 (3d Cir. 1969) (holding that "alleged bankrupt was denied procedural due process by the . . . refusal of its offer to present evidence at the close of the evidence" and that such denial could not be "harmless error"); *Republic Nat'l Bank of Dallas v. Crippen*, 224 F.2d 565, 566 (5th Cir. 1955) ("The right to be heard on their claims was a constitutional right and the denial of that right to them was the denial of due process which is never harmless error."); *Phila. Co. v. SEC*, 175 F.2d 808, 820 (D.C. Cir. 1948) ("Denial of a procedural right guaranteed by the Constitution -- in this instance denial of the type of hearing guaranteed . . . by the due process clause -- is never 'harmless error.'"), *vacated as moot*, 337 U.S. 901 (1949).



procedural due process, without exploring prejudice. *See In re Savage Indus.*, 43 F.3d 714, 721-22 (1st Cir. 1994); *cf. Nolasco v. Holder*, 637 F.3d 159, 164 (2d Cir. 2011) ("There may well be instances in which . . . failure to comply with [a procedural rule] results in a lack of notice or the denial of a meaningful opportunity to be heard such that . . . due process rights are violated.").

The § 363 sale context presents unique challenges for due process analysis. As seen here -- with over 850 objections filed -- objections may often be duplicative. *See GM*, 407 B.R. at 500 (finding successor liability "most debatable" of issues); *cf. Mullane*, 339 U.S. at 319 ("[N]otice reasonably certain to reach most of those interested in objecting is likely to safeguard the interests of all, since any objections sustained would inure to the benefit of all."). Many of the objections, especially those made against a "free and clear" provision, are not likely to be grounded in any legal right to change the terms of the sale, but rather will be grounded in a particular factual context. Section 363 sales are, in essence, private transactions. On one side, the debtor-in-possession "has ample administrative flexibility in the conduct of sales," 3 *Collier on Bankruptcy* ¶ 363.02[2], and on the other side, the purchaser need not take on liabilities unless it wishes to do so, *see id.* ¶ 363.06[7]. A bankruptcy court reviews a proposed § 363 sale's terms only for

some minimal "good business reason." *Lionel*, 722 F.2d at 1071; *see also* 3 *Collier on Bankruptcy* ¶ 363.02[1][e] ("One of the major policy decisions in drafting the Code was to separate the court from the day-to-day administrative activities in bankruptcy cases . . . ."). Many sale objections will thus sound in business reasons to change the proposed sale order, and not by reference to some legal requirement that the order *must* be changed.<sup>26</sup>

Assuming plaintiffs must demonstrate prejudice, the relevant inquiry is whether courts can be confident in the reliability of prior proceedings when there has been a procedural defect. *See Lane Hollow Coal Co. v. Dir., Office of Workers' Compensation Programs*, 137 F.3d 799, 808 (4th Cir. 1998) (considering "fairness of the trial and its reliability as an accurate indicator of guilt"); *see also Rose v. Clark*, 478 U.S. 570, 577-78 (1986) (asking whether adjudication in the criminal context without procedural protections can "reliably serve its function as

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<sup>26</sup> *See* A. Joseph Warburton, *Understanding the Bankruptcies of Chrysler and General Motors: A Primer*, 60 Syracuse L. Rev. 531, 531 (2010) ("Certain creditors, who saw their investments in the companies sharply reduced, vigorously objected to the role of the government in the bankruptcy process. Some charged that in protecting the interests of taxpayers, the Treasury Department negotiated aggressively with creditors but, in protecting the interests of organized labor, it offered the United Autoworkers union special treatment."); *see also GM*, 407 B.R. at 496 ("The objectors' real problem is with the decisions of the Purchaser, not with the Debtor, nor with any violation of the Code or caselaw.").

a vehicle for determination of" a case). In considering reliability, "[t]he entire record must be considered and the probable effect of the error determined in the light of all the evidence." 11 Charles Alan Wright, Arthur R. Miller, et al., *Federal Practice & Procedure* § 2883 (3d ed. 2016) [hereinafter "Wright & Miller"]; see *Matusick v. Erie Cty. Water Auth.*, 757 F.3d 31, 50-51 (2d Cir. 2014). "[I]f [the court] cannot say, with fair assurance, after pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error," then it must find a procedural due process violation. *Kotteakos v. United States*, 328 U.S. 750, 765 (1946).

## 2. *Application*

We need not decide whether prejudice is an element when there is inadequate notice of a proposed § 363 sale, for even assuming plaintiffs must demonstrate prejudice, they have done so here. After examining the record as a whole, we cannot say with fair assurance that the outcome of the § 363 sale proceedings would have been the same had Old GM disclosed the ignition switch defect and these plaintiffs voiced their objections to the "free and clear" provision. Because we cannot say with any confidence that no accommodation would have been made for them in the Sale Order, we reverse.

At the outset, it is difficult to evaluate in hindsight what the objections would have been had plaintiffs participated in the § 363 sale. Perhaps they would have tried to identify some legal defect in the Sale Order, asked that economic losses or pre-closing accidents arising from the ignition switch defect be exempted from the "free and clear" provision, or requested greater priority in any GUC Trust distribution. But this uncertainty about the content of plaintiffs' objections is the natural result of the lack of any meaningful opportunity to be heard in the § 363 sale proceedings. *Cf. Lane Hollow*, 137 F.3d at 808 ("If there has been no fair day in court, the reliability of the result is irrelevant, because a fair day in court is how we assure the reliability of results."). This lack of certainty in turn influences our degree of confidence in the outcome.

The bankruptcy court instead concluded that it would have reached the same decision -- that it would have entered the Sale Order on the same terms -- even if plaintiffs had been given an opportunity to be heard. The bankruptcy court concluded that these plaintiffs "offer no legally based arguments as to why they would have, or even *could* have, succeeded on the successor liability legal argument when all of the other objectors failed." *MLC II*, 529 B.R. at 567; *see GM*,

407 B.R. at 499-506 (considering objections). The bankruptcy court found that other arguments were too "speculative." *MLC II*, 529 B.R. at 567-68, 573.

We disagree. The bankruptcy court failed to recognize that the terms of this § 363 sale were not within its exclusive control. Instead, the GM sale was a negotiated deal with input from multiple parties -- Old GM, New GM, Treasury, and other stakeholders. The Sale Order and Sale Agreement reflect this polycentric approach: it includes some fifteen sets of liabilities that New GM voluntarily, and without legal compulsion, took on as its own.

The process of how New GM voluntarily assumed liabilities is most apparent with its assumption of Lemon Law claims.<sup>27</sup> Following the proposed sale order, numerous state attorneys general objected that the proposed sale would bar claims based on state Lemon Laws. But their objections were not particularly *legal* in character -- that is, no state attorney general focused on how a liability shield that barred Lemon Law claims would be illegal. Citing no law, the objection was that New GM *should* assume these liabilities "[i]n light of the relationship between [Old GM] and [New GM] . . . , as well as the statements by the United States government promising that all warranty obligations would be

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<sup>27</sup> New GM informs the Court that a similar process occurred with respect to New GM accepting responsibility for post-closing accidents.

honored." Bankr. ECF No. 2043, at 39; *accord* Bankr. ECF No. 2076, at 10. In other words, because President Obama had promised to back warranties, the state attorneys general argued that that Lemon Laws should be honored as well.

Following these objections, "Lemon Law claims were added as an assumed liability during the course of the 363 Sale hearing after negotiation with the [state attorneys general]." *MLC II*, 529 B.R. at 534 n.36. The state attorneys general had made a practical, business-minded argument, which brought Old GM, New GM, and Treasury to the negotiating table. At the sale hearing, counsel to the National Association of Attorneys General commented that the state attorneys general "have worked very hard since the beginning of the case with debtors' counsel initially, with Treasury counsel, almost everybody in this room at some point or another." J. App. 2084. The result of these negotiations was an understanding that "lemon laws were covered under the notion of warranty claims" and inclusion in the Sale Agreement of language reflecting this agreement. *Id.* at 2086.

Opportunities to negotiate are difficult if not impossible to recreate. We do not know what would have happened in 2009 if counsel representing plaintiffs with billions of dollars in claims had sat across the table from Old GM,

New GM, and Treasury. Our lack of confidence, however, is not imputed on plaintiffs denied notice but instead bolsters a conclusion that enforcing the Sale Order would violate procedural due process. Indeed, for the following reasons, while we cannot say with any certainty that the outcome would have been different, we can say that the business circumstances at the time were such that plaintiffs could have had some negotiating leverage, and the opportunity to participate in the proceedings would have been meaningful.

First, it is well documented that one of the primary impetuses behind a quick § 363 sale was to "restore consumer confidence." *GM*, 407 B.R. at 480. "The problem is that if the 363 Transaction got off track . . . , the U.S. Government would see that there was no means of early exit for GM; . . . customer confidence would plummet; and . . . the U.S. Treasury would have to keep funding GM." *Id.* at 492. If consumer confidence dissipated, neither Treasury loans nor a § 363 sale could save GM: nobody would buy a GM car.

These concerns were reflected in President Obama's \$600 million guarantee of GM and Chrysler warranties. The business of cars is unique, dependent largely on the goodwill of consumers. Cars are owned for years and form the cornerstones of quintessentially American activities: dropping off and

picking up children from school, drive-ins and drive-thrus, family vacations and road trips. "[T]he road and the automobile" are, in American history, "sanctuaries, hidden from the intrusive gaze of the state, [where] individuals live freely." Sarah Seo, *The New Public*, 125 Yale L.J. 1616, 1620 (2016). The safety and reliability of a car are central to these activities. As the head of President Obama's auto task force put it, in relation to Chrysler's bankruptcy: "what consumer would buy another Chrysler if the company didn't honor its warranties?" Rattner, *supra* note 8, at 181. In other words, plaintiffs could have tried to convince the bankruptcy parties that it made good business sense to spend substantial sums to preserve customer goodwill in the GM brand and, in turn, GM's business value.

Second, New GM was not a truly private corporation. Instead, the President and Treasury oversaw its affairs during the bailout and Treasury owned a majority stake following the bankruptcy. While private shareholders expect their investments to be profitable, the government does not necessarily share the same profit motive. Treasury injected hundreds of billions of dollars into the economy during the financial crisis, not on the expectation that it would make a reasonable rate of return but on the understanding that millions of



Americans would be affected if the economy were to collapse. If the ignition switch defect were revealed in the course of bankruptcy, plaintiffs could have petitioned the government, as the majority owner of New GM, to consider how millions of faultless individuals with defective Old GM cars could be affected. Indeed, during the later congressional hearings, Representatives and Senators questioned New GM's CEO on her invocation of the liability shield when the government guided the process. *See supra* note 13. Senator Richard Blumenthal, for instance, indicated that he would have objected in bankruptcy had he known, because he "opposed it at the time, as Attorney General for the state of Connecticut, not [foreseeing] that the material adverse fact being concealed was as gigantic as this one." April 2, 2014 Senate Hearing, *supra* note 13, at 22-23 (statement of Sen. Richard Blumenthal, Member, S. Subcomm. on Consumer Prot., Prod. Safety & Ins.).

Third, we must price in the real cost of disrupting the bankruptcy process. From the middle of 2007 through the first quarter of 2009, Old GM's average net loss exceeded \$10 billion per quarter; a day's worth of delay would cost over \$125 million, a week almost a billion dollars. We do not know whether the proceedings would have been delayed, but some delay was certainly

possible. For instance, Congress called the GM CEO to testify over the course of four days.<sup>28</sup> Old GM likewise conducted a thorough internal investigation on the ignition switch defect, and the Valukas Report took more than two-and-a-half months to prepare. It seems unlikely that a bankruptcy court would have casually approved a "free and clear" provision while these investigations into the ignition switch defect's precise nature were still ongoing.

Finally, there is the detriment of added litigation -- had the class actions been filed in the midst of bankruptcy, the mere administration of those cases could have taken considerable resources. Had the government also brought criminal charges -- such as the charges now suspended by a deferred prosecution agreement with the U.S. Attorney's Office for the Southern District of New York in which New GM forfeited \$900 million -- managing how to juggle bankruptcy with a criminal prosecution could have taken even longer. *United States v. \$900,000,000 in U.S. Currency*, No. 15 Civ. 7342 (S.D.N.Y.), ECF No. 1; see 11 U.S.C. § 362(b)(1) (exempting from usual automatic stay criminal actions against debtor). The reasonable conclusion is that, with the likelihood and price of disruption to the bankruptcy proceedings being so high, plaintiffs at least had

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<sup>28</sup> See Rattner, *supra* note 8, at 304 ("The auto rescue succeeded in no small part because we did not have to deal with Congress.").

a basis for making business-minded arguments for why they should receive some accommodation in or carve-out from the Sale Order.

Under these circumstances, we cannot be confident that the Sale Order would have been negotiated and approved exactly as it was if Old GM had revealed the ignition switch defect in bankruptcy. The facts here were peculiar and are no doubt colored by the inadequate notice and plaintiffs' lack of *any* meaningful opportunity to be heard. *See Kotteakos*, 328 U.S. at 765 (directing courts to consider "all that happened without stripping the erroneous action from the whole"). Given the bankruptcy court's focus on consumer confidence, the involvement of Treasury, the financial stakes at the time, and all the business circumstances, there was a reasonable possibility that plaintiffs could have negotiated some relief from the Sale Order.

We address two further concerns. First, the bankruptcy court stated that it "would not have let GM go into the liquidation that would have resulted if [it] denied approval of the 363 Sale." *MLC II*, 529 B.R at 567; *see* J. App. 1623. In other words, the bankruptcy court suggested that it would have approved the § 363 sale anyway, because the alternative was liquidation -- and liquidation would have been catastrophic. While we agree that liquidation would have been

catastrophic, we are confident that Old GM, New GM, Treasury, and the bankruptcy court itself would have endeavored to address the ignition switch claims in the Sale Order if doing so was good for the GM business. The choice was not just between the Sale Order as issued and liquidation; accommodations could have been made.

Second, many of the peculiar facts discussed apply with less force to the Non-Ignition Switch Plaintiffs, who assert claims arising from other defects. The bankruptcy court entered judgment against the Non-Ignition Switch Plaintiffs based on its opinion determining the rights of the other plaintiffs, but left as an open question whether Old GM knew of the Non-Ignition Switch Plaintiffs' claims based in other defects. *See MLC III*, 531 B.R. at 360. Without factual findings relevant to determining knowledge, we have no basis for deciding whether notice was adequate let alone whether enforcement of the Sale Order would violate procedural due process as to these claims.

To conclude, we reverse the bankruptcy court's decision insofar as it enforced the Sale Order to enjoin claims relating to the ignition switch defect.<sup>29</sup> *See MLC II*, 529 B.R. at 566-73. Because enforcing the Sale Order would violate

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<sup>29</sup> In reversing, we express no views on the Groman Plaintiffs' request for discovery to prove a procedural due process violation or fraud on the court.

procedural due process in these circumstances, the bankruptcy court erred in granting New GM's motion to enforce and these plaintiffs thus cannot be "bound by the terms of the [Sale] Order[]." *In re Johns-Manville Corp.*, 600 F.3d 135, 158 (2d Cir. 2010). As to claims based in non-ignition switch defects, we vacate the bankruptcy court's decision to enjoin those claims, *see MLC III*, 531 B.R. at 360, and remand for further proceedings consistent with this opinion.

#### **IV. *Equitable Mootness***

Finally, we address the bankruptcy court's decision that relief for any would-be claims against GUC Trust was equitably moot. *MLC II*, 529 B.R. at 583-92. We ordinarily review "dismissal on grounds of equitable mootness for abuse of discretion, under which we examine conclusions of law de novo and findings of fact for clear error." *In re BGI, Inc.*, 772 F.3d 102, 107 (2d Cir. 2014) (citation omitted). There were, however, no claims asserted against Old GM or GUC Trust in bankruptcy court or in the multi-district litigation. Under these circumstances, we exercise our "independent obligation" to ensure that the case "satisfies the 'case-or-controversy' requirement of Article III, Section 2 of the Constitution." *United States v. Williams*, 475 F.3d 468, 478-9 (2d Cir. 2007).

### A. *Applicable Law*

The doctrine of equitable mootness allows appellate courts to dismiss bankruptcy appeals "when, during the pendency of an appeal, events occur" such that "even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable." *In re Chateaugay Corp.* ("*Chateaugay II*"), 988 F.2d 322, 325 (2d Cir. 1993). "[A] bankruptcy appeal is presumed equitably moot when the debtor's reorganization plan has been substantially consummated." *In re BGI*, 772 F.3d at 108. To obtain relief in these circumstances, a claimant must satisfy the so-called "*Chateaugay* factors." See *Chateaugay III*, 10 F.3d at 952-53.

The equitable mootness doctrine has enigmatic origins, and the range of proceedings in which it applies is not well settled. See *In re Continental Airlines*, 91 F.3d 553, 567 (3d Cir. 1996) (*en banc*) (Alito, J., dissenting) (labeling it a "curious doctrine"). Our Circuit has acknowledged that the doctrine draws on "equitable considerations as well as the constitutional requirement that there be a case or controversy." *Chateaugay III*, 10 F.3d at 952. Other courts have focused instead on the doctrine's statutory underpinnings and role in "fill[ing] the interstices of the Code." *In re UNR Indus., Inc.*, 20 F.3d 766, 769 (7th Cir. 1994)

(explaining also difference between "*inability* to alter the outcome (real mootness) and *unwillingness* to alter the outcome ('equitable mootness')). Indeed, several provisions of the Code prohibit modification of bankruptcy orders unless those orders are stayed pending appeal. *See, e.g.*, 11 U.S.C. §§ 363(m), 364(e).

However broad the doctrine of equitable mootness, Article III requires a case or controversy before relief may be equitably mooted.<sup>30</sup> "[E]quitable mootness bears only upon the proper *remedy*, and does not raise a threshold question of our power to rule." *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005) (emphasis added).

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<sup>30</sup> We do not resolve whether it is appropriate for a bankruptcy court -- as opposed to an appellate court -- to apply equitable mootness, which appears to be a recent phenomenon. *E.g.*, *In re Innovative Clinical Sols., Ltd.*, 302 B.R. 136, 141 (Bankr. D. Del. 2003) (citing *In re Circle K Corp.*, 171 B.R. 666, 669 (Bankr. D. Ariz. 1994), which nominally applied constitutional mootness); *see also* Alan M. Ahart, *The Limited Scope of Implied Powers of a Bankruptcy Judge: A Statutory Court of Bankruptcy, Not A Court of Equity*, 79 Am. Bankr. L.J. 1, 32-33 (2005) ("Since a bankruptcy court is not a court of equity, a bankruptcy judge ought not resort to non-statutory equitable principles, defenses, doctrines or remedies to excuse compliance with or to override provision(s) of the Bankruptcy Code or rules, or nonbankruptcy federal law."(footnotes omitted)). Indeed, this Circuit's equitable mootness cases have all involved an appellate body applying the doctrine in the first instance. *See, e.g.*, *BGI*, 772 F.3d 102; *In re Charter Commc'ns, Inc.*, 691 F.3d 476 (2d Cir. 2012); *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136 (2d Cir. 2005); *In re Burger Boys, Inc.*, 94 F.3d 755 (2d Cir. 1996); *In re Chateaugay Corp.*, 94 F.3d 772 (2d Cir. 1996); *In re Best Prods. Co.*, 68 F.3d 26 (2d Cir. 1995); *Chateaugay III*, 10 F.3d 944; *Chateaugay II*, 988 F.2d 322.

"The oldest and most consistent thread in the federal law of justiciability is that federal courts will not give advisory opinions." 13 Wright & Miller § 3529.1. A controversy that is "appropriate for judicial determination . . . must be definite and concrete, touching the legal relations of parties having adverse legal interests." *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240-41 (1937); see *Flast v. Cohen*, 392 U.S. 83, 95 (1968) ("limit[ing] the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process"). "[F]ederal courts are without power to decide questions that cannot affect the rights of *litigants in the case before them*." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (emphasis added). That is, courts may not give "an opinion advising what the law would be upon a hypothetical state of facts," *Aetna Life Ins.*, 300 U.S. at 241, for instance, where a party did not "seek the adjudication of any adverse legal interests," *S. Jackson & Son, Inc. v. Coffee, Sugar & Cocoa Exch. Inc.*, 24 F.3d 427, 432 (2d Cir. 1994).

These limitations apply to bankruptcy courts. See *Wellness Int'l Network, Ltd. v. Sharif*, 135 S. Ct. 1932, 1945 (2015) ("Bankruptcy courts hear matters solely on a district court's reference [and] possess no free-floating authority to decide claims traditionally heard by Article III courts."). In



bankruptcy, moreover, the adjudication of claims may be subject to other preparatory steps. Bankruptcy courts will generally set a "bar date" that fixes the time to file a proof of claim against the bankruptcy estate. *See* Fed. R. Bankr. P. 3002(c)(3). If the bar date has passed, then the initial step for an individual seeking relief against the estate would be to seek permission to file a late proof of claim: only after permission is granted can that individual claim that she is entitled to relief. *See* Fed. R. Bankr. P. 9006(b)(1); *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 394-95 (1993) (setting forth standard for "excusable neglect" for late claims under Rule 9006(b)(1)).

**B. *Application***

Here, the bankruptcy court held that any relief from GUC Trust would be equitably moot. But plaintiffs never sought relief from GUC Trust. The bankruptcy court's ruling on equitable mootness was therefore advisory.

Neither GUC Trust nor Old GM are parties to the multi-district litigation now ongoing in district court. Only one defendant is named: New GM. Likewise, as GUC Trust confirmed at oral argument, plaintiffs have not filed any proofs of claim with GUC Trust, nor have they even asked the

bankruptcy court for permission to file late proofs of claim or to lift the bar date, as would be required before relief could be granted.<sup>31</sup>

Instead, it appears from the record that GUC Trust became involved at *New GM's* behest. New GM noted "well there is a GUC Trust" and suggested that because of the Sale Order's bar on successor liability, any claims remained with Old GM and thus GUC Trust. J. App. 11038. But New GM has not sought to implead and bring cross-claims against GUC Trust in the multi-district litigation under Federal Rule of Civil Procedure 14 or to do the same in the Groman Plaintiffs' adversary proceeding in bankruptcy under Federal Rule of Bankruptcy Procedure 7014.

Moreover, GUC Trust has protested its involvement in the case. At a May 2, 2014 hearing, GUC Trust notified the bankruptcy court that it was "frankly [a] stranger[] to these proceedings." *Id.* at 11093. This was, according to GUC Trust's uncontested representation, because:

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<sup>31</sup> The bankruptcy court lifted the bar date for independent claims as a remedy. *See MLC II*, 529 B.R. at 583. We note, however, that neither the Groman Plaintiffs nor Ignition Switch Plaintiffs requested this as relief. The Ignition Switch Plaintiffs only mentioned in a footnote in their opposition to the motion to enforce that Old GM failed to provide notice of the bar date. The Pre-Closing Accident Plaintiffs stated on behalf of all plaintiffs that "Plaintiffs are not asserting a due process challenge to a bar date order or a discharge injunction issued in favor of a debtor." Bankr. ECF No. 13021, at 48 n.26.

No claimants, none of the plaintiffs, no claimants or potential claimants had raised this as a possibility. No one has filed a motion to lift the bar date. The only person that has raised it has been New GM, based upon, you know, some statements of fact in some pleadings. But the only person that has actually moved forward with it is New GM, and frankly, you know, it's our view that this is essentially a way to deflect liability away, and you know, the attention away from New GM and put it on a third party.

*Id.* at 11090. At a July 2, 2014 hearing, GUC Trust continued to push that litigation of the equitable mootness issue was premature, and dependent on whether the Sale Order could be enforced. *Id.* at 8485.<sup>32</sup>

Nonetheless, the bankruptcy court asked the parties (including GUC Trust) to brief initially whether claims against New GM were really claims against Old GM's bankruptcy estate or GUC Trust. As the bankruptcy court stated: "we're going to consider as [a] threshold issue[] . . . the *possibility* that the claims now being asserted *may be* claims against Old GM or the GUC Trust." J. App. 11103 (emphases added). Following a later hearing, the bankruptcy court

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<sup>32</sup> The bankruptcy court seemingly agreed momentarily, commenting at the hearing that they could proceed "without now addressing and while maintaining reservations of rights with respect to issues such as . . . equitable [moot]ness." *Id.* at 8491.

added an issue of whether claims, if any, against GUC Trust should be "disallowed/dismissed on grounds of equitable mootness." *Id.* at 5780.

GUC Trust was thus not a "litigant[] in the case before [the bankruptcy court]," *Rice*, 404 U.S. at 246, who "s[ought] the adjudication of any adverse legal interests," *S. Jackson & Son, Inc.*, 24 F.3d at 432. GUC Trust sought *not* to be involved, but the bankruptcy court ordered otherwise. In doing so, the bankruptcy court was concerned with a "hypothetical" scenario, *see Aetna Life Ins.*, 300 U.S. at 241 -- the "possibility" that there "may be" late-filed claims against GUC Trust, J. App. 11103. The bankruptcy court's decision on equitable mootness that followed essentially advised on this hypothetical controversy.

We acknowledge that the parties have expended considerable time arguing about equitable mootness. We are likewise cognizant that plaintiffs at one point sent a letter to GUC Trust suggesting that it should freeze its distributions pending the bankruptcy proceedings. *See MLC II*, 529 B.R. at 537-38. But plaintiffs did not pursue any claims. Ultimately, it is the *parties*, and not the court, that must create the controversy. *See Dep't of Env'tl. Prot. & Energy v. Helder Indus., Inc.*, 989 F.2d 702, 707 (3d Cir. 1993) (rendering advisory "an answer to a question not asked" by the parties).

We thus conclude that the bankruptcy court's decision on equitable mootness was advisory and vacate that decision. *See MLC II*, 529 B.R. at 583-92.

### **CONCLUSION**

For the reasons set forth above, with respect to the bankruptcy court's decisions below, we:

- (1) **AFFIRM** the decision not to enforce the Sale Order as to the independent claims;
- (2) **REVERSE** the decision to enforce the Sale Order as to the Used Car Purchasers' claims and claims relating to the ignition switch defect, including pre-closing accident claims and economic loss claims;
- (3) **VACATE** the decision to enforce the Sale Order as to claims relating to other defects; and
- (4) **VACATE** the decision on equitable mootness as advisory.

We **REMAND** the case for further proceedings consistent with this opinion.

Exhibit "Q"

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
By: JASON H. COWLEY  
ALEXANDER J. WILSON

Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>VERIFIED COMPLAINT</u>
	:	
-v.-	:	15 Civ. _____
	:	
\$900,000,000 in United States	:	
Currency,	:	
	:	
Defendant <i>in rem</i> .	:	
-----x		

Plaintiff United States of America, by its attorney, PREET BHARARA, United States Attorney for the Southern District of New York, for its Verified Complaint (the "Complaint") alleges, upon information and belief, as follows:

I. JURISDICTION AND VENUE

1. This action is brought by the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C), seeking the forfeiture of \$900,000,000 in United States Currency (the "Defendant Funds" or the "defendant-in-rem").



2. This Court has jurisdiction pursuant to 28 U.S.C. § 1355.

3. Venue is proper pursuant to 28 U.S.C. § 1355(b)(1)(A) because certain acts and omissions giving rise to the forfeiture took place in the Southern District of New York, and pursuant to Title 28, United States Code, Section 1395 because the defendant-in-rem shall be transferred to the Southern District of New York.

4. The Defendant Funds represent property constituting and derived from proceeds of wire fraud in violation of Title 18, United States Code, Sections 1343, and property traceable to such property; and are thus subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C).

## II. PROBABLE CAUSE FOR FORFEITURE

5. General Motors Company ("GM"), an automotive company headquartered in Detroit, Michigan, entered into a Deferred Prosecution Agreement with the United States, wherein, *inter alia*, GM agreed to forfeit a total of \$900,000,000, i.e., the Defendant Funds, to the United States. GM agrees that the Defendant Funds are substitute *res* for the proceeds of GM's wire fraud offense. The Deferred Prosecution Agreement, with the

accompanying Statement of Facts and Information, is attached as Exhibit A and incorporated herein.

### III. CLAIM FOR FORFEITURE

6. The allegations contained in paragraphs one through five of this Verified Complaint are incorporated by reference herein.

7. Title 18, United States Code, Section 981(a)(1)(C) subjects to forfeiture "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to a violation of . . . any offense constituting 'specified unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense."

8. "Specified unlawful activity" is defined in 18 U.S.C. § 1956(c)(7) to include any offense under 18 U.S.C. § 1961(1). Section 1961(1) lists, among others offenses, violations of Title 18, United States Code, Section 1343 (relating to wire fraud).

9. By reason of the foregoing, the defendant-in-rem is subject to forfeiture to the United States of America pursuant to Title 18, United States Code, Section 981(a)(1)(C), as it is substitute res for property derived from wire fraud, in violation of Title 18, United States Code, Section 1343.



WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the defendant-in-rem and that all persons having an interest in the defendant-in-rem be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the defendant-in-rem to the United States of America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York  
September 16, 2015

PREET BHARARA  
United States Attorney for  
Plaintiff United States of America

By: 

JASON H. COWLEY  
ALEXANDER J. WILSON  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2200

VERIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK :  
SOUTHERN DISTRICT OF NEW YORK )

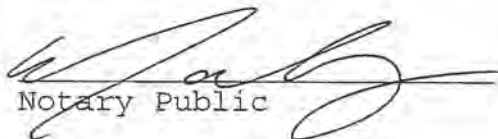
KENNETH W. JACOUTOT, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Transportation, Office of Inspector General; that he has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true to the best of his knowledge, information and belief.

The sources of deponent's information and the grounds of his belief are his personal involvement in the investigation, and conversations with and documents prepared by law enforcement officers and others.



\_\_\_\_\_  
Kenneth W. Jacoutot  
Special Agent  
Department of Transportation,  
Office of Inspector General

Sworn to before me this  
16th day of September, 2015

  
Notary Public

**NAEEM A. CONWAY**  
Notary Public, State of New York  
No. 01CO6110667  
Qualified in New York County  
Commission Expires June 01, 2016

# Exhibit

# A



U.S. Department of Justice

United States Attorney  
Southern District of New York

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York New York 10007*

September 16, 2015

Anton R. Valukas, Esq.  
Reid J. Schar, Esq.  
Anthony S. Barkow, Esq.  
Jenner & Block LLP  
919 Third Avenue  
New York, NY 10022

**Re: General Motors Company – Deferred Prosecution Agreement**

Dear Messrs. Valukas, Schar, and Barkow:

Pursuant to the understandings specified below, the Office of the United States Attorney for the Southern District of New York (the “Office”) and the defendant General Motors Company (“GM”),<sup>1</sup> under authority granted by its Board of Directors in the form of the written authorization attached as Exhibit A, hereby enter into this Deferred Prosecution Agreement (the “Agreement”).

**The Criminal Information**

1. GM consents to the filing of a two-count Information (the “Information”) in the United States District Court for the Southern District of New York (the “Court”), charging GM with engaging in a scheme to conceal a deadly safety defect from its U.S. regulator, in violation of Title 18, United States Code, Section 1001, and committing wire fraud, in violation of Title 18, United States Code, Section 1343. A copy of the Information is attached as Exhibit B. This Agreement shall take effect upon its execution by both parties.

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<sup>1</sup> For the purposes of this Deferred Prosecution Agreement, to the extent any conduct, statement, actions, or documents occurred on or are dated before July 10, 2009, references to “GM” shall mean and are intended to mean solely “Motors Liquidation Company,” previously known as General Motors Corporation (“Old GM”). Although New GM in the Statement of Facts attached as Exhibit C hereto admits certain facts about Old GM’s acts, conduct, or knowledge prior to July 10, 2009 based on New GM’s current knowledge, New GM does not intend those admissions to imply or suggest that New GM is responsible for any acts, conduct or knowledge of Old GM, or that such acts, conduct, and knowledge of Old GM can be imputed to New GM. The Statement of Facts is not intended to alter, modify, expand, or otherwise affect any provision of the July 5, 2009 Sale Order that was issued by the U.S. Bankruptcy Court for the Southern District of New York, or the rights, protections, and responsibilities of New GM under the Sale Order..

Anton R Valukas, Esq.  
Reid J. Schar, Esq.  
Anthony S. Barkow, Esq.  
September 16, 2015

Acceptance of Responsibility

2. GM admits and stipulates that the facts set forth in the Statement of Facts attached as Exhibit C and incorporated herein are true and accurate. In sum, GM admits that it failed to disclose to its U.S. regulator and the public a potentially lethal safety defect that caused airbag non-deployment in certain GM model cars, and that GM further affirmatively misled consumers about the safety of GM cars afflicted by the defect.

Forfeiture

3. As a result of the conduct described in the Information and the Statement of Facts, GM agrees to pay to the United States \$900 million (the "Stipulated Forfeiture Amount") representing the proceeds resulting from such conduct. GM agrees that the allegations contained in the Information and the facts set forth in the Statement of Facts are sufficient to establish that the Stipulated Forfeiture Amount is subject to civil forfeiture to the United States and that this Agreement, Information, and Statement of Facts may be attached to and incorporated into the Civil Forfeiture Complaint to be filed against the Stipulated Forfeiture Amount, a copy of which is attached as Exhibit D hereto. By this Agreement, GM specifically waives service of said Civil Forfeiture Complaint and agrees that a Final Order of Forfeiture may be entered against the Stipulated Forfeiture Amount. Upon payment of the Stipulated Forfeiture Amount, GM shall release any and all claims it may have to such funds and execute such documents as necessary to accomplish the forfeiture of the funds. GM agrees that it will not file a claim with the Court or otherwise contest the civil forfeiture of the Stipulated Forfeiture Amount and will not assist a third party in asserting any claim to the Stipulated Forfeiture Amount. GM agrees that the Stipulated Forfeiture Amount shall be treated as a penalty paid to the United States government for all purposes, including all tax purposes. GM agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, local, or foreign tax for any fine or forfeiture paid pursuant to this Agreement.

4. GM shall transfer \$900 million to the United States by no later than September 24, 2015 (or as otherwise directed by the Office following such date). Such payment shall be made by wire transfer to the United States Marshals Service, pursuant to wire instructions provided by the Office. If GM fails to timely make the payment required under this paragraph, interest (at the rate specified in Title 28, United States Code, Section 1961) shall accrue on the unpaid balance through the date of payment, unless the Office, in its sole discretion, chooses to reinstate prosecution pursuant to paragraphs 10 and 11 below.

Obligation to Cooperate

5. GM has cooperated with this Office's criminal investigation and agrees to cooperate fully and actively with the Office, the Federal Bureau of Investigation ("FBI"), the Department of Transportation ("DOT"), the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), the National Highway Traffic Safety Administration ("NHTSA"), and any other agency of the government designated by the Office



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September 16, 2015

regarding any matter relating to the Office's investigation about which GM has knowledge or information.

6. It is understood that GM shall (a) truthfully and completely disclose all information with respect to the activities of itself and its subsidiaries, as well as with respect to the activities of officers, agents, and employees of GM and its subsidiaries, concerning all matters about which the Office inquires of it, which information can be used for any purpose; (b) cooperate fully with the Office, FBI, DOT, SIGTARP, NHTSA, and any other law enforcement agency designated by the Office; (c) attend all meetings at which the Office requests its presence and use its best efforts to secure the attendance and truthful statements or testimony of any past or current officers, agents, or employees of GM or its subsidiaries at any meeting or interview or before the grand jury or at trial or at any other court proceeding; (d) provide to the Office upon request any document, record, or other tangible evidence relating to matters about which the Office or any designated law enforcement agency inquires of it; (e) assemble, organize, and provide in a responsive and prompt fashion, and upon request, on an expedited schedule, all documents, records, information and other evidence in GM's possession, custody or control as may be requested by the Office, FBI, DOT, SIGTARP, NHTSA, or designated law enforcement agency; (f) volunteer and provide to the Office any information and documents that come to GM's attention that may be relevant to the Office's investigation of this matter, any issue related to the Statement of Facts, and any issue that would fall within the scope of the duties of the independent monitor (the "Monitor") as set forth in paragraph 15; (g) provide testimony or information necessary to identify or establish the original location, authenticity, or other basis for admission into evidence of documents or physical evidence in any criminal or other proceeding as requested by the Office, FBI, DOT, SIGTARP, NHTSA, or designated law enforcement agency, including but not limited to information and testimony concerning the conduct set forth in the Information and Statement of Facts; (h) bring to the Office's attention all criminal conduct by or criminal investigations of GM or any of its agents or employees acting within the scope of their employment related to violations of the federal laws of the United States, as to which GM's Board of Directors, senior management, or United States legal and compliance personnel are aware; (i) bring to the Office's attention any administrative or regulatory proceeding or civil action brought by or investigation conducted by any U.S. governmental authority that alleges fraud by GM; and (j) commit no crimes whatsoever under the federal laws of the United States subsequent to the execution of this Agreement. In the event the Office determines that information it receives from GM pursuant to this provision should be shared with DOT and/or NHTSA, the Office may request that GM provide such information to DOT and/or NHTSA directly. GM will submit such information to DOT and/or NHTSA consistent with the regulatory provisions related to the protection of confidential business information contained in 49 C.F.R. Part 512 and 49 C.F.R. Part 7. Nothing in this Agreement shall be construed to require GM to provide any information, documents or testimony protected by the attorney-client privilege, work product doctrine, or any other applicable privilege.

7. GM agrees that its obligations pursuant to this Agreement, which shall commence upon the signing of this Agreement, will continue for three years from the date of the

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September 16, 2015

Court's acceptance of this Agreement, unless otherwise extended pursuant to paragraph 12 below. GM's obligation to cooperate is not intended to apply in the event that a prosecution against GM by this Office is pursued and not deferred.

#### Deferral of Prosecution

8. In consideration of GM's entry into this Agreement, the actions it has taken to date to demonstrate acceptance and acknowledgement of responsibility for its conduct (including, among other things, conducting a swift and robust internal investigation, furnishing this Office with a continuous flow of unvarnished facts gathered during the course of that internal investigation, voluntarily providing, without prompting, certain documents and information otherwise protected by the attorney-client privilege, providing timely and meaningful cooperation more generally in the investigation conducted by this Office, terminating wrongdoers, and establishing a full and independent victim compensation program that has to date paid out hundreds of millions of dollars in awards), and its commitment to: (a) continue to accept and acknowledge responsibility for its conduct; (b) continue to cooperate with the Office, FBI, DOT, SIGTARP, NHTSA, and any other law enforcement agency designated by this Office; (c) make the payments specified in this Agreement; (d) comply with Federal criminal laws; and (e) otherwise comply with all of the terms of this Agreement, the Office shall recommend to the Court that prosecution of GM on the Information be deferred for three years from the date of the signing of this Agreement. GM shall expressly waive indictment and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Southern District of New York for the period during which this Agreement is in effect. GM shall expressly waive any objection to venue with respect to any charges arising out of the conduct described in the Statement of Facts and shall expressly consent to the filing of the Information in the Southern District of New York.

9. It is understood that this Office cannot, and does not, agree not to prosecute GM for criminal tax violations. However, if GM fully complies with the terms of this Agreement, no testimony given or other information provided by GM (or any other information directly or indirectly derived therefrom) will be used against GM in any criminal tax prosecution. In addition, the Office agrees that, if GM is in compliance with all of its obligations under this Agreement, the Office will, within thirty (30) days after the expiration of the period of deferral (including any extensions thereof), seek dismissal with prejudice as to GM of the Information filed against GM pursuant to this Agreement. Except in the event of a violation by GM of any term of this Agreement, the Office will bring no additional charges against GM, except for criminal tax violations, relating to its conduct as described in the admitted Statement of Facts. This Agreement does not provide any protection against prosecution for any crimes except as set forth above and does not apply to any individual or entity other than GM and its subsidiaries. GM and the Office understand that the Agreement to defer prosecution of GM must be approved by the Court, in accordance with 18 U.S.C. § 3161(h)(2). Should the Court decline to approve the Agreement to defer prosecution for any reason, both the Office and GM are released from any

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September 16, 2015

obligation imposed upon them by this Agreement, and this Agreement shall be null and void, except for the tolling provision set forth in paragraph 10.

10. It is further understood that should the Office in its sole discretion determine based on facts learned subsequent to the execution of this Agreement that GM has: (a) knowingly given false, incomplete or misleading information to the Office, FBI, DOT, SIGTARP, or NHTSA, either during the term of this Agreement or in connection with the Office's investigation of the conduct described in the Information and Statement of Facts, (b) committed any crime under the federal laws of the United States subsequent to the execution of this Agreement, or (c) otherwise violated any provision of this Agreement, GM shall, in the Office's sole discretion, thereafter be subject to prosecution for any federal criminal violation of which the Office has knowledge, including but not limited to a prosecution based on the Information, the Statement of Facts, or the conduct described therein. Any such prosecution may be premised on any information provided by or on behalf of GM to the Office and/or FBI, DOT, SIGTARP, or NHTSA at any time. In any such prosecution, no charge would be time-barred provided that such prosecution is brought within the applicable statute of limitations period, excluding (a) any period subject to any prior or existing tolling agreement between the Office and GM and (b) the period from the execution of this Agreement until its termination. GM agrees to toll, and exclude from any calculation of time, the running of the applicable criminal statute of limitations for the length of this Agreement starting from the date of the execution of this Agreement and including any extension of the period of deferral of prosecution pursuant to paragraph 12 below. By this Agreement, GM expressly intends to and hereby does waive its rights in the foregoing respects, including any right to make a claim premised on the statute of limitations, as well as any constitutional, statutory, or other claim concerning pre-indictment delay. Such waivers are knowing, voluntary, and in express reliance on the advice of GM's counsel.

11. It is further agreed that in the event that the Office, in its sole discretion, determines that GM has violated any provision of this Agreement, including by failure to meet its obligations under this Agreement: (a) all statements made by or on behalf of GM to the Office, FBI, DOT, SIGTARP, and/or NHTSA, including but not limited to the Statement of Facts, or any testimony given by GM or by any agent of GM before a grand jury, or elsewhere, whether before or after the date of this Agreement, or any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings hereinafter brought by the Office against GM; and (b) GM shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by or on behalf of GM before or after the date of this Agreement, or any leads derived therefrom, should be suppressed or otherwise excluded from evidence. It is the intent of this Agreement to waive any and all rights in the foregoing respects.

12. GM agrees that, in the event that the Office determines during the period of deferral of prosecution described in paragraph 8 above (or any extensions thereof) that GM has violated any provision of this Agreement, an extension of the period of deferral of prosecution



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September 16, 2015

may be imposed in the sole discretion of the Office, up to an additional one year, but in no event shall the total term of the deferral-of-prosecution period of this Agreement exceed four (4) years.

13. GM, having truthfully admitted to the facts in the Statement of Facts, agrees that it shall not, through its attorneys, agents, or employees, make any statement, in litigation or otherwise, contradicting the Statement of Facts or its representations in this Agreement. Consistent with this provision, GM may raise defenses and/or assert affirmative claims and defenses in any proceedings brought by private and/or public parties as long as doing so does not contradict the Statement of Facts or such representations. Any such contradictory statement by GM, its present or future attorneys, agents, or employees shall constitute a violation of this Agreement and GM thereafter shall be subject to prosecution as specified in paragraphs 8 through 11, above, or the deferral-of-prosecution period shall be extended pursuant to paragraph 12, above. The decision as to whether any such contradictory statement will be imputed to GM for the purpose of determining whether GM has violated this Agreement shall be within the sole discretion of the Office. Upon the Office's notifying GM of any such contradictory statement, GM may avoid a finding of violation of this Agreement by repudiating such statement both to the recipient of such statement and to the Office within two business days after having been provided notice by the Office. GM consents to the public release by the Office, in its sole discretion, of any such repudiation. Nothing in this Agreement is meant to affect the obligation of GM or its officers, directors, agents or employees to testify truthfully to the best of their personal knowledge and belief in any proceeding.

14. GM agrees that it is within the Office's sole discretion to choose, in the event of a violation, the remedies contained in paragraphs 10 and 11 above, or instead to choose to extend the period of deferral of prosecution pursuant to paragraph 12. GM understands and agrees that the exercise of the Office's discretion under this Agreement is unreviewable by any court. Should the Office determine that GM has violated this Agreement, the Office shall provide notice to GM of that determination and provide GM with an opportunity to make a presentation to the Office to demonstrate that no violation occurred, or, to the extent applicable, that the violation should not result in the exercise of those remedies or in an extension of the period of deferral of prosecution, including because the violation has been cured by GM.

#### **Independent Monitor**

15. GM agrees to retain a Monitor upon selection by the Office and approval by the Office of the Deputy Attorney General, whose powers, rights and responsibilities shall be as set forth below.

(a). Jurisdiction, Powers, and Oversight Authority. To address issues related to the Statement of Facts and Information, the Monitor shall have the authorities and duties defined below. The scope of the Monitor's authority is to review and assess GM's policies, practices or procedures as set forth below, and is not intended to include substantive review of the correctness of any of GM's prior, present, or future decisions relating to compliance with NHTSA's regulatory regime, including the National Traffic and Motor Vehicle

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Safety Act, its implementing regulations, and related policies. Nor is it intended to supplant NHTSA's authority over decisions related to motor vehicle safety. Except as expressly set forth below, the authority granted below shall not include the authority to exercise oversight, or to participate in, decisions by GM about product offerings, decisions relating to product development, engineering of GM vehicles, capital allocation, and investment decisions.

(1). Review and assess the efficacy of GM's current policies, practices, and procedures in ensuring that GM corrects prior statements and assurances concerning motor vehicle safety;

(2). Review and assess the effectiveness of GM's current policies, practices, or procedures for sharing allegations and engineering analyses associated with lawsuits and not-in-suit matters with those responsible for recall decisions;

(3). Review and assess GM's current compliance with its stated recall processes; and

(4). Review and assess the adequacy of GM's current procedures for addressing known defects in certified pre-owned vehicles.

It is the intent of this Agreement that the provisions regarding the Monitor's jurisdiction, powers, and oversight authority and duties be broadly construed, subject to the following limitation: the Monitor's responsibilities shall be limited to GM's activities in the United States, and to the extent the Monitor seeks information outside the United States, compliance with such requests shall be consistent with the applicable legal principles in that jurisdiction. GM shall adopt all recommendations submitted by the Monitor unless GM objects to any recommendation and the Office agrees that adoption of such recommendation should not be required.

(b). Access to Information. The Monitor shall have the authority to take such reasonable steps, in the Monitor's view, as necessary to be fully informed about those operations of GM within or relating to his or her jurisdiction. To that end, the Monitor shall have:

(1). Access to, and the right to make copies of, any and all non-privileged books, records, accounts, correspondence, files, and any and all other documents or electronic records, including e-mails, of GM and its subsidiaries, and of officers, agents, and employees of GM and its subsidiaries, within or relating to his or her jurisdiction that are located in the United States; and

(2). The right to interview any officer, employee, agent, or consultant of GM conducting business in or present in the United States and to participate in any meeting in the United States concerning any matter within or relating to the Monitor's jurisdiction.

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To the extent that the Monitor seeks access to information contained within privileged documents or materials, GM shall use its best efforts to provide the Monitor with the information without compromising the asserted privilege.

(c). Confidentiality.

(1). The Monitor shall maintain the confidentiality of any non-public information entrusted or made available to the Monitor. The Monitor shall share such information only with the Office, FBI and SIGTARP. The Monitor may also determine that such information should be shared with DOT and/or NHTSA. In the event of such a determination, the Monitor may request that GM provide the subject information directly to DOT and/or NHTSA. GM will submit such information to DOT or NHTSA consistent with the regulatory provisions related to the protection of confidential business information contained in 49 C.F.R. Part 512 and 49 C.F.R. Part 7.

(2). The Monitor shall sign a non-disclosure agreement with GM prohibiting disclosure of information received from GM to anyone other than to the Office, FBI, DOT, SIGTARP or NHTSA, and anyone hired by the Monitor. Within thirty days after the end of the Monitor's term, the Monitor shall either return anything obtained from GM, or certify that such information has been destroyed. Anyone hired by the Monitor shall also sign a non-disclosure agreement with similar return or destruction requirements as set forth in this subparagraph.

(d). Hiring Authority. The Monitor shall have the authority to employ legal counsel, consultants, investigators, experts, and any other personnel necessary to assist in the proper discharge of the Monitor's duties.

(e). Implementing Authority. The Monitor shall have the authority to take any other actions in the United States that are necessary to effectuate the Monitor's oversight and monitoring responsibilities.

(f). Miscellaneous Provisions.

(1). Term. The Monitor's authority set forth herein shall extend for a period of three years from the commencement of the Monitor's duties, except that (a) in the event the Office determines during the period of the Monitorship (or any extensions thereof) that GM has violated any provision of this Agreement, an extension of the period of the Monitorship may be imposed in the sole discretion of the Office, up to an additional one-year extension, but in no event shall the total term of the Monitorship exceed the term of the Agreement; and (b) in the event the Office, in its sole discretion, determines during the period of the Monitorship that the employment of a Monitor is no longer necessary to carry out the purposes of this Agreement, the Office may shorten the period of the Monitorship.

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(2). Selection of the Monitor. The Office shall consult with GM, including soliciting nominations from GM, using its best efforts to select and appoint a mutually acceptable Monitor (and any replacement Monitors, if required) as promptly as possible. In the event that the Office is unable to select a Monitor acceptable to GM, the Office shall have the sole right to select a monitor (and any replacement Monitors, if required). To ensure the integrity of the Monitorship, the Monitor must be independent and objective and the following persons shall not be eligible as either a Monitor or an agent, consultant or employee of the Monitor: (a) any person previously employed by GM; or (b) any person who has been directly adverse to GM in any proceeding. The selection of the Monitor must be approved by the Deputy Attorney General.

(3). Notice regarding the Monitor; Monitor's Authority to Act on Information received from Employees; No Penalty for Reporting. GM shall establish an independent, toll-free answering service to facilitate communication anonymously or otherwise with the Monitor. Within 10 days of the commencement of the Monitor's duties, GM shall advise its employees of the appointment of the Monitor, the Monitor's powers and duties as set forth in this Agreement, the toll-free number established for contacting the Monitor, and email and mail addresses designated by the Monitor. Such notice shall inform employees that they may communicate with the Monitor anonymously or otherwise, and that no agent, consultant, or employee of GM shall be penalized in any way for providing information to the Monitor. In addition, such notice shall direct that, if an employee is aware of any violation of any law or any unethical conduct that has not been reported to an appropriate federal, state or municipal agency, the employee is obligated to report such violation or conduct to GM's compliance office in the United States or the Monitor. The Monitor shall have access to all communications made using this toll-free number. The Monitor has the sole discretion to determine whether the toll-free number is sufficient to permit confidential and/or anonymous communications or whether the establishment of an additional toll-free number is required. Further, the Monitor shall inform GM of communications made to the Monitor regarding motor vehicle safety so that GM can address any allegations consistent with its Code of Conduct and related policies and procedures.

(4). Reports to the Office. The Monitor shall keep records of his or her activities, including copies of all correspondence and telephone logs, as well as records relating to actions taken in response to correspondence or telephone calls. If potentially illegal or unethical conduct is reported to the Monitor, the Monitor may, at his or her option, conduct an investigation, and/or refer the matter to the Office. The Monitor should, at his or her option, refer any potentially illegal or unethical conduct to GM's compliance office. The Monitor may report to the Office whenever the Monitor deems fit but, in any event, shall file a written report not less often than every four months regarding: the Monitor's activities; whether GM is complying with the terms of this Agreement; and any changes that are necessary to foster GM's compliance with any applicable laws, regulations and standards related to the Monitor's jurisdiction as set forth in paragraph 15(a). Such periodic written reports are to be provided to GM and the Office. The Office may, in its sole discretion, provide to FBI and SIGTARP all or part of any such periodic written report, or other information provided to the Office by the Monitor. The Office may also



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determine that all or part of any such periodic report, or other information provided to the Office by the Monitor, be provided to DOT and/or NHTSA. In the event of such a determination, the Office may request that GM transmit such report, part of a report, and/or non-public information to DOT and/or NHTSA directly. GM will submit such report, part of a report, and/or non-public information to DOT and/or NHTSA consistent with the regulatory provisions related to the protection of confidential business information contained in 49 C.F.R. Part 512 and 49 C.F.R. Part 7. GM may provide all or part of any periodic written reports to NHTSA or other federal agencies or governmental entities. Should the Monitor determine that it appears that GM has violated any law, has violated any provision of this Agreement, or has engaged in any conduct that could warrant the modification of his or her jurisdiction, the Monitor shall promptly notify the Office, and when appropriate, GM.

(5). Cooperation with the Monitor. GM and all of its officers, directors, employees, agents, and consultants, and all of the officers, directors, employees, agents, and consultants of GM's subsidiaries shall have an affirmative duty to cooperate with and assist the Monitor in the execution of his or her duties provided in this Agreement and shall inform the Monitor of any non-privileged information that may relate to the Monitor's duties or lead to information that relates to his or her duties. Failure of any GM officer, director, employee, or agent to cooperate with the Monitor may, in the sole discretion of the Monitor, serve as a basis for the Monitor to recommend dismissal or other disciplinary action.

(6). Compensation and Expenses. Although the Monitor shall operate under the supervision of the Office, the compensation and expenses of the Monitor, and of the persons hired under his or her authority, shall be paid by GM. The Monitor, and any persons hired by the Monitor, shall be compensated in accordance with their respective typical hourly rates. GM shall pay bills for compensation and expenses promptly, and in any event within 30 days. In addition, within one week after the selection of the Monitor, GM shall make available office space, telephone service and clerical assistance sufficient for the Monitor to carry out his or her duties.

(7). Indemnification. GM shall provide an appropriate indemnification agreement to the Monitor with respect to any claims arising out of the performance of the Monitor's duties.

(8). No Affiliation. The Monitor is not, and shall not be treated for any purpose, as an officer, employee, agent, or affiliate of GM.

#### Limits of this Agreement

16. It is understood that this Agreement is binding on the Office but does not bind any other Federal agencies, any state or local law enforcement agencies, any licensing authorities, or any regulatory authorities. However, if requested by GM or its attorneys, the Office will bring to the attention of any such agencies, including but not limited to any regulators,

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September 16, 2015

as applicable, this Agreement, the cooperation of GM, and GM's compliance with its obligations under this Agreement.

**Public Filing**

17. GM and the Office agree that, upon the submission of this Agreement (including the Statement of Facts and other attachments) to the Court, this Agreement and its attachments shall be filed publicly in the proceedings in the United States District Court for the Southern District of New York.

18. The parties understand that this Agreement reflects the unique facts of this case and is not intended as precedent for other cases.

**Execution in Counterparts**

19. This Agreement may be executed in one or more counterparts, each of which shall be considered effective as an original signature.

Anton R Valukas, Esq.  
Reid J. Schar, Esq.  
Anthony S. Barkow, Esq.  
September 16, 2015

Integration Clause

20. This Agreement sets forth all the terms of the Deferred Prosecution Agreement between GM and the Office. No modifications or additions to this Agreement shall be valid unless they are in writing and signed by the Office, GM's attorneys, and a duly authorized representative of GM.

PREET BHARARA  
United States Attorney  
Southern District of New York

By: Bonnie Jonas Sarah Eddy McCallum Edward Imperatore  
BONNIE JONAS  
SARAH EDDY MCCALLUM  
EDWARD A. IMPERATORE  
Assistant United States Attorneys

Daniel L. Stein  
DANIEL L. STEIN  
Chief, Criminal Division

Accepted and agreed to:

Craig B. Glidden  
Craig Glidden, Esq.

General Counsel and Chief Legal Officer,  
General Motors Company

Anton R. Valukas  
Anton R. Valukas, Esq.  
Reid J. Schar, Esq.  
Anthony S. Barkow, Esq.

Attorneys for General Motors Company

Exhibit A  
to the Deferred  
Prosecution Agreement



GENERAL MOTORS COMPANY  
RESOLUTIONS OF THE BOARD OF DIRECTORS

The following resolutions were duly adopted at a meeting of the Board of Directors of General Motors Company held on September 16, 2015:

WHEREAS, the Company has been engaged in discussions with the U.S. Attorney's Office for the Southern District of New York (the "U.S. Attorney's Office") in connection with an investigation being conducted by the U.S. Attorney's Office of the Company's recalls of vehicles equipped with a defective ignition switch and related matters (the "Investigation"); and

WHEREAS, the Board has determined that it is in the best interest of the Company to enter into a Deferred Prosecution Agreement with the U.S. Attorney's Office that would resolve the Investigation on the terms that have been presented by and discussed with the U.S. Attorney's Office (the "DPA").

RESOLVED that the Board hereby authorizes the Company to resolve the Investigation by entering into the DPA on substantially the same terms set forth in materials provided to the Board in advance of the meeting and described to and reviewed with the Board on September 16, 2015;

RESOLVED that the Board hereby authorizes the Company to disclose the DPA, as appropriate, and the Authorized Officers (defined below) are hereby authorized to take all steps necessary to carry out the disclosure of the DPA; and

RESOLVED that the Board hereby authorizes Mr. Craig B. Glidden, General Counsel for the Company, and outside counsel representing the Company from Jenner & Block LLP, acting together, to execute and deliver the DPA on behalf of the Company and further authorizes them and other appropriate officers of the Company, any one of which acting alone (individually and collectively, the "Authorized Officers"), to take any and all other actions as may be necessary or appropriate to effectuate and finalize the DPA.


  
Craig B. Glidden  
General Counsel

Exhibit B  
to the Deferred  
Prosecution Agreement

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : INFORMATION

-v.- :

GENERAL MOTORS COMPANY, : 15 Cr. \_\_\_

Defendant. :

-----x

COUNT ONE

(Scheme to Conceal Material Facts  
from a Government Regulator)

The United States Attorney charges:

1. GENERAL MOTORS COMPANY ("GM" or the "Company"), the defendant, is an automotive company headquartered in Detroit, Michigan. In 2012, GM was the largest automotive company in the world.

2. At all times relevant to this Information, GM designed, manufactured, assembled, and sold Chevrolet brand vehicles. From the earliest date relevant to this Information until in or about 2010, GM designed, manufactured, assembled, and sold Pontiac brand vehicles. From the earliest date relevant to this Information until in or about 2009, GM designed, manufactured, assembled, and sold Saturn brand vehicles. And from the earliest date relevant to this Information until in or about the spring of 2013, GM promoted

sales of "pre-owned" (*i.e.*, used) Chevrolet, Pontiac, and Saturn brand vehicles by GM dealerships nationwide.

3. At all times relevant to this Information, GM was required to disclose to its U.S. regulator, the National Highway Traffic Safety Administration ("NHTSA"), any defect in its cars "related to motor vehicle safety" within five business days of identifying said defect. See 49 U.S.C. § 30118(c) & 49 C.F.R. § 573.6.

4. From in or about the spring of 2012 through in or about February 2014, GM, through its agents and employees, concealed a potentially deadly safety defect from NHTSA and the public. The defect related to an ignition switch that had been designed and manufactured with too-low torque (the "Defective Switch"). As GM knew by no later than 2005, the Defective Switch was prone to too-easy movement from the "Run" to the "Accessory" or "Off" position. And as GM personnel well knew no later than the spring of 2012, when that movement occurred, the driver would lose not only the assistance of power steering and power brakes but also the protection afforded by the vehicle's frontal airbags in the event of a crash.

5. Rather than remedy the Defective Switch when its torque deficiencies and attendant stalling consequences became clear no later than in or about 2005, GM continued to sell and manufacture new cars equipped with the Defective Switch.

Moreover, although the public was made aware, through media reports, of the Defective Switch's existence, GM affirmatively assured consumers in or about June 2005 that the Defective Switch presented no "safety" problem.

6. In or about April 2006, a GM engineer directed that the Defective Switch no longer be used in new cars, and that it be replaced with another, non-defective switch that would bear the same part number as the Defective Switch. Nothing was done at this time to remedy the cars equipped with the Defective Switch that were already on the road.

7. When the fact that the Defective Switch could cause airbag non-deployment -- and therefore undeniably presented a *safety* defect -- became plain no later than in or about the spring of 2012, GM did not correct its earlier assurance that the Defective Switch posed no "safety" concern. Nor did it recall the affected vehicles. Instead, it concealed the defect from NHTSA and the public, taking the matter "offline," outside the normal recall process, so that the Company could buy time to package, present, explain, and manage the issue. Fearing an adverse impact on the Company's business, GM engineers and executives wanted to have answers to all questions that NHTSA, the media, and consumers might pose about the defect before alerting the regulator and the public to it.

8. GM did not recall the vehicles equipped with the Defective Switch until February 2014. In the meantime, in or about October 2012 and again in or about November 2013, GM personnel gave presentations to NHTSA in which they touted the robustness of GM's internal recall process and gave the misleading impression that GM worked promptly and efficiently to resolve known safety defects, including, specifically, defects related to airbag non-deployment.

#### Statutory Allegations

9. From in or about the spring of 2012 through in or about February 2014, GM, the defendant, in a matter within the jurisdiction of the executive branch of the Government of the United States, willfully and knowingly did falsify, conceal, and cover up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit, GM engaged in a scheme to conceal from its federal U.S. regulator, NHTSA, a potentially deadly safety defect that GM was required to disclose within five business days of discovery thereof.

(Title 18, United States Code, Sections 1001 and 2.)

COUNT TWO  
(Wire Fraud)

The United States Attorney further charges:

10. The allegations contained in Paragraphs 1 through 8 are repeated and realleged as though fully set forth herein.

11. From in or about the spring of 2012 through in or about the spring of 2013, GM dealerships continued to sell GM-certified pre-owned Chevrolet, Pontiac, and Saturn brand vehicles equipped with the Defective Switch. To promote these sales and give customers assurance about the safety of the cars subject to its certified pre-owned program, GM made representations by means of interstate wires -- that is, over the Internet -- falsely assuring customers of the safety of the used cars they were purchasing. In particular, GM certified that used vehicles sold pursuant to this program had been checked for safety of their ignition systems and keys. In truth and in fact, and as GM well knew, cars equipped with the Defective Switch posed a potentially deadly safety threat related to the cars' ignition switches and keys.

12. In addition to making these false representations as part of its certified pre-owned program, GM, more generally, failed to disclose a material fact that it had a duty to disclose -- namely, that cars equipped with the Defective Switch presented a safety defect. GM's duty to disclose this fact

derived from two sources: (a) its false June 2005 representation that the Defective Switch presented no safety concern; and (b) its obligation under applicable regulations to inform NHTSA of any known safety defect within five business days of discovery thereof.

Statutory Allegation

13. From in or about the spring of 2012 through in or about February 2014, in the Southern District of New York and elsewhere, GM, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted and aid and abet the transmission, by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, GM defrauded U.S. consumers into purchasing its products by concealing information and making misleading statements about the safety of vehicles equipped with the Defective Switch.

(Title 18, United States Code, Sections 1343 and 2.)



FORFEITURE ALLEGATION

14. As a result of committing the wire fraud offense alleged in Count Two of this Information, GM, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any property, real or personal, which constitutes or is derived from proceeds traceable to such offense.

Substitute Asset Provision

15. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any

other property of said defendant up to the value of the  
above forfeitable property.

(Title 18, United States Code, Sections 981 and 982; Title 21  
United States Code, Section 853; and  
Title 28, United States Code, Section 2461.)

Preet Bharara  
PREET BHARARA  
United States Attorney

Exhibit C  
to the Deferred  
Prosecution Agreement

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Statement of Facts

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Overview

1. GENERAL MOTORS COMPANY (“GM” or the “Company”), which in 2012 was the largest automotive manufacturer in the world, is headquartered in Detroit, Michigan.<sup>1</sup>

2. At all times relevant to this Statement of Facts, GM designed, manufactured, assembled, and sold Chevrolet brand vehicles. From the earliest date relevant to this Statement of Facts until in or about 2010, GM designed, manufactured, assembled, and sold Pontiac brand vehicles. From the earliest date relevant to this Statement of Facts until in or about 2009, GM designed, manufactured, assembled, and sold Saturn brand vehicles. And from the earliest date relevant to this Statement of Facts until in or about the spring of 2013, GM promoted sales of “pre-owned” (*i.e.*, used) Chevrolet, Pontiac, and Saturn brand vehicles by GM dealerships nationwide.

3. As set forth in more detail below, from in or about the spring of 2012 through in or about February 2014, GM failed to disclose a deadly safety defect to its U.S. regulator, the National Highway Traffic Safety Administration (“NHTSA”). It also falsely represented to consumers that vehicles containing the defect posed no safety concern.

4. The defect at issue is a low-torque ignition switch installed in many of the vehicles identified below, which, under certain circumstances, may move out of the “Run” position (the “Defective Switch”). If this movement occurs, the driver loses the assistance of power steering and power brakes. And if a collision occurs while the switch is in the Accessory or Off position, the vehicle’s safety airbags may fail to deploy—increasing the risk of death and serious injury in certain types of crashes in which the airbag was otherwise designed to deploy. The model year cars which may have been equipped with the Defective Switch are the 2005, 2006, and 2007 Chevrolet Cobalt; the 2005, 2006, and 2007 Pontiac G5; the 2003, 2004, 2005, 2006, and 2007 Saturn Ion; the 2006 and 2007 Chevrolet HHR; the 2007 Saturn Sky; and the

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<sup>1</sup> For the purposes of this Statement of Facts, to the extent any conduct, statement, actions, or documents occurred on or are dated before July 10, 2009, references to “GM” shall mean and are intended to mean solely “Motors Liquidation Company,” previously known as General Motors Corporation (“Old GM”). Although New GM in this Statement of Facts admits certain facts about Old GM’s acts, conduct, or knowledge prior to July 10, 2009 based on New GM’s current knowledge, New GM does not intend those admissions to imply or suggest that New GM is responsible for any acts, conduct or knowledge of Old GM, or that such acts, conduct, and knowledge of Old GM can be imputed to New GM. This Statement of Facts is not intended to alter, modify, expand, or otherwise affect any provision of the July 5, 2009 Sale Order that was issued by the U.S. Bankruptcy Court for the Southern District of New York, or the rights, protections, and responsibilities of New GM under the Sale Order.

2006 and 2007 Pontiac Solstice. To date, GM has acknowledged a total of 15 deaths, as well as a number of serious injuries, that occurred in crashes in which the Defective Switch may have caused or contributed to frontal airbag non-deployment.

5. Before the Defective Switch went into production in 2002, certain GM engineers knew that it was prone to movement out of the Run position; testing of a prototype showed that the torque return between the Run and Accessory positions fell below GM's own internal specifications. But the engineer in charge of the Defective Switch approved its production anyway.

6. In or about 2004 and 2005, as GM employees, media representatives, and GM customers began to experience sudden stalls and engine shutoffs caused by the Defective Switch, GM considered fixing the problem. However, having decided that the switch did not pose a safety concern, and citing cost and other factors, engineers responsible for decision-making on the issue opted to leave the Defective Switch as it was and simply promulgate an advisory to dealerships with tips on how to minimize the risk of unexpected movement out of the Run position. GM even rejected a simple improvement to the head of the key that would have significantly reduced unexpected shutoffs at a price of less than a dollar a car. At the same time, in or about June 2005, GM issued a statement that acknowledged circumstances where the ignition key could inadvertently move to the Accessory or Off position when the car was running. In response to a further inquiry, GM informed a newspaper that GM did not believe the inadvertent rotation of the ignition key was a safety issue.

7. From approximately the spring of 2012, certain GM personnel knew that the Defective Switch presented a safety defect because it could cause airbag non-deployment associated with death and serious injury.

8. Yet not until approximately 20 months later, in February 2014, did GM first notify NHTSA and the public of the connection between the Defective Switch and fatal airbag non-deployment incidents. This announcement accompanied an initial recall of approximately 700,000 vehicles—a population that would, by March 2014, grow to more than 2 million.

9. Inside GM, certain personnel responsible for shepherding safety defects through GM's internal recall process delayed this recall until GM could fully package, present, explain, and handle the deadly problem, taking affirmative steps to keep the Defective Switch matter outside the normal process. On at least two occasions while the Defective Switch condition was well known by some within GM but not disclosed to the public or NHTSA, certain GM personnel made incomplete and therefore misleading presentations to NHTSA assuring the regulator that GM would and did act promptly, effectively, and in accordance with its formal recall policy to respond to safety problems—including airbag-related safety defects.

10. Moreover, for much of the period during which GM failed to disclose this safety defect, it not only failed to correct its June 2005 assurance that the Defective Switch posed no safety concern but also actively touted the reliability and safety of cars equipped with the Defective Switch, with a view to promoting sales of used GM cars. Although GM sold no *new* cars equipped with the Defective Switch during this period, GM dealers were still, from in or about the spring of 2012 through in or about the spring of 2013, selling pre-owned Chevrolet, Pontiac, and Saturn brand cars that would later become subject to the February 2014 recalls. These sales were accompanied by certifications from GM, assuring the unwitting consumers that the vehicles' components, including their ignition systems and keys, met all safety standards.

11. After the spring of 2012 but before the recall was announced, the fifteenth Company-acknowledged death associated with the Defective Switch occurred.

#### Regulatory Framework and GM's Formal Recall Process

12. Under regulations applicable to GM at all relevant times, the Company was required to disclose to NHTSA any "defect . . . related to motor vehicle safety." "Motor vehicle safety" was defined as "performance of a motor vehicle . . . in a way that protects the public against unreasonable risk of accidents . . . and against unreasonable risk of death or injury in an accident." 49 U.S.C. §§ 30118(c)(1); 30102(a)(8). Such disclosure had to be "submitted not more than 5 working days after a defect in a vehicle or item of equipment ha[d] been determined to be safety related." *See* 49 U.S.C. § 30118(c) and 49 C.F.R. § 573.6.<sup>2</sup>

13. The required disclosure was to be made by filing a "Defect Information Report" or "DIR." An auto manufacturer's filing of a DIR with NHTSA is commonly referred to as a "recall."

14. At all times relevant to this Statement of Facts, GM had a formal recall decision-making process, called the Field Performance Evaluation or "FPE" process, the steps of which were well documented. According to Company policy, the FPE process was supposed to be initiated by dedicated engineers in the Product Investigations ("PI") group. PI, which was at all relevant times headed by GM's Director of Safety & Crashworthiness or Director of Product Investigations, was responsible for identifying and investigating suspected safety and compliance problems with GM cars.

15. Once PI had completed its investigation of a suspected safety problem, it would, according to GM policy, hand the matter off from the engineering side of the house to the

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<sup>2</sup> Congress has adopted no criminal penalty for violating this regulatory disclosure requirement. Instead, in order for a company to be held criminally liable under federal law for even an egregious failure to report a known safety defect, its conduct must have independently violated some other federal law to which criminal penalties do attach.

“Quality” organization—specifically, to the “FPE Director.” This entailed presenting the problem at a weekly Investigation Status Review (“ISR”) meeting attended by the FPE Director, GM’s Director of Safety & Crashworthiness or Director of Product Investigations, and a member of GM’s legal department.

16. If, based on PI’s presentation at the ISR, these three individuals believed that the matter involved a potential safety defect, they were to advance it for consideration by the Field Performance Evaluation Team (“FPET”). The FPET had no recall decision-making authority but was tasked with gathering information needed to execute a potential recall.

17. At roughly the same time that the FPET was apprised of the issue, the matter was also supposed to go before the Field Performance Evaluation Review Committee (“FPERC”). The FPERC would make a preliminary decision about whether the issue under consideration qualified as a “defect . . . related to motor vehicle safety” under the applicable regulations and thus warranted a recall. It would then transmit its recommendation to the ultimate recall decision-making body, the Executive Field Action Decision Committee (“EFADC”). The EFADC was at all relevant times made up of three GM Vice Presidents.

18. Typically, the EFADC’s decision would have followed within approximately a week of the FPET’s and the FPERC’s consideration of the matter. If the EFADC voted for a recall, that decision would be reported to NHTSA within five business days, at which time a DIR would also be filed.

#### GM Equips Cars with a Defective Switch

19. In the early 2000s, GM launched a series of compact cars that it marketed as affordable, safe, and fuel-efficient—features particularly attractive to young, first-time car owners. One of these small cars was the Saturn Ion, first launched in 2002. Another was the Chevrolet Cobalt, launched in 2004. These two models belonged to GM’s “Delta” platform, and, from their respective launches until around late 2006, both were equipped with the same defective ignition switch (the Defective Switch). The Defective Switch would also be installed in other, less popular Chevrolet, Saturn, and Pontiac models from in or about 2004 through in or about late 2006.

20. Development of the switch that would end up first in the Ion and then in the Cobalt and other models began in the late 1990s. By March 2001, the GM design release engineer then in charge of the Ion’s switch (the “Switch DRE”) had finalized the applicable design specifications and communicated them to the supplier in charge of testing and manufacturing the component (the “Switch Supplier”). Among the specifications communicated to the Switch Supplier was that the torque necessary to move the switch from Run to Accessory must be no less than 15 Newton centimeters (“N-cm”) (the “Torque Specification”).



Mechanically, this torque performance was to be maintained by a detent plunger and spring within the switch.

21. Testing conducted by the Switch Supplier in 2001 and early 2002 revealed that an early version of the pre-production Defective Switch was not meeting the Torque Specification; it repeatedly scored “Not OK.” A July 2001 pre-production report for the Ion within GM made the same observation: the switch had “low detent plunger force.”

22. In email correspondence between the Switch DRE and the Switch Supplier in early 2002, the Switch Supplier confirmed that an early version of the Defective Switch was not meeting the Torque Specification and outlined the problems that might arise if the part were brought into compliance—including pressure on other switch components, delay, and increased costs. Saying that he was “tired of the switch from hell” and did not want to either compromise the electrical performance of the switch or slow the production schedule, the Switch DRE directed the Switch Supplier to “maintain present course” notwithstanding that there was “still too soft of a detent.” Accordingly, the Defective Switch was put into production and installed into the first model year of the Ion (model year 2003), which was first sold to the public in 2002.

23. By email dated March 28, 2002, the Switch DRE recommended that the Defective Switch also be used in the Cobalt, which was to launch the next year. GM followed that recommendation.

24. Almost immediately, customers began to report problems with cars equipped with the Defective Switch. Meanwhile, GM employees tasked with driving early production versions of the Ion and then the Cobalt were reporting stalls while driving, and some of them were able to attribute the problem to the easy rotation of the key within the Defective Switch.

25. Members of the press covering the Cobalt’s launch also experienced the unexpected shutoff problem. Alerted by one of the press reports, two executives in charge of safety at GM<sup>3</sup> determined to experience for themselves the complained-of phenomenon. In June 2005, they test drove a Cobalt and found that, as reported, the Cobalt could be easily keyed off by contact with the driver’s knee.

26. Shortly afterward, GM issued a press statement acknowledging the problem as it pertained to the Cobalt, which had the greatest number of consumer complaints: “In rare cases when a combination of factors is present, a Chevrolet Cobalt driver can cut power to the engine by inadvertently bumping the ignition key to the accessory or off position while the car is running.” The press release further recommended that drivers remove “nonessential material from their key rings.” Before its public release, this statement was reviewed and approved by the

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<sup>3</sup> The two executives were GM’s then-Director of Vehicle Safety & Crashworthiness and the Senior Manager of the PI group (the “PI Senior Manager”).



PI Senior Manager and by the senior GM attorney who advised engineers about safety- and recall-related issues (the "GM Safety Attorney"). In a response to further media inquiry, GM stated that it did not believe this condition presented a safety concern.

27. A June 2005 *Cleveland Plain Dealer* article reporting on the ignition switch problem marveled at GM's public statement, commenting "you have to admit it is pretty funny to hear somebody pretend that turning off the engine by mistake isn't a safety issue."

28. Just days before this article was published, GM engineers working on the Pontiac Solstice, another new car equipped with the Defective Switch, learned of a complaint about a Solstice that had experienced the same inadvertent shutoff problem as had been reported in the Ion and the Cobalt.

#### GM Considers a Fix

29. In November 2004, the Company opened the first of six engineering inquiries that would be initiated in the ensuing five years to consider ameliorative engineering changes for new cars being rolled off the production line. This first inquiry was closed "with no action" in March 2005. Fixes such as improving the torque performance of the Defective Switch itself and changing the head of the associated key to reduce the likelihood of inadvertent movement from Run to Accessory were rejected as not representing "an acceptable business case." Having decided that the switch did not pose a safety concern, GM engineers concluded that each proposed solution would take too long to implement, would cost too much, and would not fully fix "the possibility of the key being turned (ignition turn off) during driving."

30. Accordingly, GM decided to keep producing and selling new Cobalts, Ions, Solstices, Skys, G5s, and HHRs equipped with the Defective Switch.

31. Not all involved in the November 2004 engineering inquiry agreed with this outcome at the time. The Vehicle Performance Manager for the Cobalt believed that the Defective Switch presented a potential safety problem because it could cause sudden loss of power steering and power brakes. (This engineer did not have in mind at the time the loss of power to the airbag system.) He therefore thought a remedy should have been implemented without regard to cost concerns. His views did not prevail.

32. Meanwhile, in February 2005, while the November 2004 engineering inquiry was still open, the Company released a "Preliminary Information" to its dealers aimed at helping them diagnose and address the Defective Switch problem if a customer experienced it in a 2005 Cobalt or 2005 Pontiac Pursuit.<sup>4</sup> This publication explained that the Defective Switch's too-low "key ignition cylinder torque/effort" could cause "Engine Stalls" and "Loss of Electrical

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<sup>4</sup> The Ion was not covered by this Preliminary Information.

Systems.” It advised dealers to tell customers to remove non-essential items from their key chains. It offered no other fixes.

33. In May 2005, just two months after the November 2004 engineering inquiry into the Defective Switch was closed without action, a GM brand quality manager opened a second inquiry to consider fixing the problem for new cars. This manager cited a customer complaint that the “vehicle ignition will turn off while driving,” and noted that GM was having to buy back Cobalts as a result of the Defective Switch.

34. Still not believing this was a safety issue, GM engineers closed this inquiry too, without issuing a recall. Although GM engineers involved in the inquiry initially resolved to ameliorate the low torque problem for newly produced 2007 Cobalts by changing the design of the key head so that the key ring would sit in a “hole” rather than a “slot” (thus reducing the lever arm and attendant potential torque), they ultimately rejected this solution.

35. GM continued producing and selling new cars equipped with the Defective Switch and accompanying slot-head key.

36. Meanwhile, GM’s PI group, which was responsible for addressing problems with cars already on the road, began in the summer of 2005 to study the low torque issue. Like the engineering inquiries targeted at yet-to-be-manufactured cars, this investigation essentially went nowhere. Although PI engineers presented the matter to the ISR (the first stage of the potential recall process) in the summer of 2005, decision-makers who attended that ISR decided that the problem did not present a safety concern and thus did not warrant further consideration for recall. At the time, neither PI nor any member of the ISR seems to have appreciated that one of the electronic systems shut off by an inadvertent movement of the Defective Switch out of the Run position was the airbag system.

37. Having determined that the problem did not pose a safety concern and thus need not be considered further for recall, GM simply replaced the February 2005 Preliminary Information with a more formal “Service Bulletin” to its dealers (the “2005 Service Bulletin”), alerting them to an “inadvertent turning off” problem and instructing them to provide any complaining customers with inserts for their key heads that would transform the slot into a hole and thus reduce the lever arm. Unlike the Preliminary Information, which accurately described the condition caused by the Defective Switch as (among other things) a “stall,” the 2005 Service Bulletin omitted that word. Thus, a dealer responding to a customer inquiry or complaint would not locate the bulletin if he or she only used the word “stall” in the search.

38. The omission of the word “stall” from the 2005 Service Bulletin was deliberate. The PI Senior Manager, who oversaw and could control the wording of GM service bulletins, directed that the word be kept out of this bulletin even though he knew customers would naturally describe the problem as “stalling.” The reason for the omission was to avoid attracting

the attention of GM's regulator, NHTSA. As it had happened, in the interim between the February 2005 Preliminary Information and the 2005 Service Bulletin, some within GM had been meeting with representatives of NHTSA to try to persuade them that defects causing vehicles to stall were not necessarily safety defects warranting recall action. NHTSA agreed that stalls were not necessarily safety issues, but certain GM personnel were also aware of the regulator's sensitivity to stalling problems throughout this period.

39. Although the bulletin referenced not just the Cobalt but also the HHR, the Ion, the Solstice, and the Pursuit, and although it was updated in October 2006 to cover the model year 2007 versions of these cars and the 2007 Saturn Sky, the customers who would ultimately receive the bulletin's recommended key-head inserts between 2005 and 2014 numbered only about 430.

#### The Changes to the Switch and the Key

40. As of the spring of 2006, the 2005 Service Bulletin was the lone measure in place to address the Defective Switch. There were no systematic efforts to provide key modifications for all owners of affected cars—or even all owners who came into dealerships for service. And every day more and more new cars with the Defective Switch were being manufactured and sold to unwary customers.

41. In April 2006, that changed. The Switch DRE, who had received numerous complaints about the Defective Switch from other GM employees, authorized replacement of the Defective Switch in new cars with a different one that had a longer detent plunger and therefore significantly greater torque. The Switch DRE further directed, in contravention of accepted GM practice, that this change be implemented without a corresponding part number change. As a result, no one looking at the switch would be able, without taking it apart, to tell the difference between the old, Defective Switch and the new, non-defective one.

42. Although it was effectuated without a part number change, the switch change that the Switch DRE approved was documented internally, and other engineers were aware of it at the time and afterward. For example, a March 2007 note logged in connection with an engineering inquiry into another matter related to the Ion specifically observed that “[t]he detent plunger torque force was increased” by the Switch DRE in April 2006.

43. Another relevant change to the Cobalt was made in 2009. Having previously rejected the slot-to-hole alteration to the key head design, GM finally decided to implement that change. An engineer involved in the decision wrote at the time: “This issue has been around since man first lumbered out of [the] sea and stood on two feet.” The long-overdue change went into effect for the model year 2010 Cobalt.

The Defective Switch's Deadly Consequences<sup>5</sup>

44. As noted, the too-easy movement of the Defective Switch from the Run to the Accessory or Off position resulted in an unexpected shutoff of the engine and—as both the February 2005 Preliminary Information and the 2005 Service Bulletin properly described—a “loss of electrical system[s].” These electrical systems included power steering and power brakes. They also included the sensing diagnostic module or “SDM,” which controlled airbag deployment. Internal GM documents reflect that although the impact of an engine shutoff on the SDM was not on GM engineers’ minds, certain employees within GM understood no later than 2001 the natural connection between a loss of electrical systems and non-deployment of airbags: if the ignition switch turned to Off or Accessory, the SDM would “drop,” and the airbags would therefore be disabled. If a crash then ensued, neither the driver nor any passengers could have the protection of an airbag.

45. And, indeed, the deadly effects of the Defective Switch on airbag non-deployment began manifesting themselves early on, in crashes about which GM was made aware contemporaneously. In July 2004, the 37 year-old driver of a 2004 Ion, a mother of three children and two step-children, died in a crash after her airbags failed to deploy. A few months later, in November 2004, the passenger of a 2004 Ion died in another crash where the airbags failed to deploy. The driver was charged with, and ultimately pled guilty to, negligent homicide. Then, in June 2005, a 40-year-old man suffered serious injuries after his 2005 Ion crashed and the airbags failed to deploy.

46. For each of these Ion crashes in which the subject vehicles evidently lost power before impact, the SDM data recovered from the crashed vehicles was unilluminating. Unlike the SDM installed in the Cobalt, the Ion’s SDM was incapable of recording data—including power mode status—after the vehicle had lost power.

47. The Cobalt SDM data, by contrast, reflected a number of non-deployments accompanied by a power mode status recording of Accessory or Off.

48. In July 2005, just months after GM closed its first engineering inquiry into the Defective Switch, a 16-year-old driver died in Maryland when the airbags in her 2005 Cobalt failed to deploy. The power mode status recorded for that vehicle at the time of the crash was Accessory.

49. In October 2006, two more teenagers died, also in a 2005 Cobalt, in Wisconsin. The airbags in the vehicle failed to deploy when they should have, and the police officer who

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<sup>5</sup> GM has acknowledged 15 deaths occurring in crashes in which the Defective Switch may have caused or contributed to airbag non-deployment, not all of which are described herein. Many other deaths have been alleged to have been associated with the Defective Switch.

examined the crashed vehicle noted in a February 2007 report on the incident that the ignition switch “appeared to have been in the accessory position . . . preventing the airbags from deploying.” An April 2007 report about the same crash by Indiana University likewise posited that the airbags had failed to deploy because the key was in the Accessory position. This report even specifically referenced the October 2006 version of the 2005 Service Bulletin, which described the Defective Switch.

50. In the spring of 2007, NHTSA approached certain GM personnel to express concern about a high number of airbag non-deployment complaints in Cobalts and Ions, and to ask questions about the July 2005 Cobalt crash resulting in the death of the 16-year-old girl. Around this same time, and as a result of NHTSA’s inquiries, a GM field performance assessment engineer with expertise in airbags who worked principally with GM lawyers (the “Airbag FPA Engineer”) began, at the request of his supervisors, to track reports of crashes in Cobalts where the airbags failed to deploy. And, in May 2007, the PI group even placed the issue of Cobalt airbag non-deployment into the first stage of GM’s recall process, the ISR. But the PI group, under the supervision of the PI Senior Manager, conducted no follow-up at the time.

51. In September 2008, another crash, this one involving a 2006 Cobalt, killed two people. The airbags failed to deploy when they should have. GM sent the crashed car’s SDM to the Company’s SDM supplier for examination. In May 2009, the SDM supplier reported that the power mode status was at one point during the crash recorded as Off, and that this was one of two possible explanations for the failure of the airbags to deploy. This report was provided in writing, but also in person, at a meeting attended by several GM employees—including a member of the PI group, in-house counsel, and the Airbag FPA Engineer who had been tracking the Cobalt non-deploy incidents.

52. In April 2009, a 73-year-old grandmother and her 13-year-old granddaughter were killed in rural Pennsylvania in a crash when the ignition switch in the grandmother’s 2005 Cobalt slipped into the Accessory position, thereby disabling the frontal airbags and preventing their deployment. The grandmother and her 13-year-old granddaughter, who was in the front passenger seat, both died at the scene. A 12-month-old great grandson, the sole survivor, was paralyzed from the waist down. He was hospitalized for 33 days following the crash.

53. In December 2009, a 35-year-old Virginia woman crashed her 2005 Cobalt, sustaining serious head injuries and rib fractures (hereinafter, the “Virginia Crash”). The airbags failed to deploy, and, as the Airbag FPA Engineer noted, the power mode at the time of the crash was recorded as Accessory.

54. Two weeks later, a 25-year-old nursing student died in Tennessee following a head-on collision in her 2006 Cobalt (hereinafter, the “Tennessee Crash”). Again, the airbags failed to deploy when they should have, and the power mode status was recorded as Off at the time of the crash.



55. In March 2010, a 29 year-old woman was killed in Georgia after her 2005 Cobalt crashed (hereinafter, the “Georgia Crash”). Although there was no allegation that the frontal airbag should have deployed, there was an allegation that loss of power steering caused the crash. The SDM from the vehicle showed that the power mode status was recorded as Accessory at the time of the crash.

56. Notably, just nine days before the Georgia Crash, GM had conducted a safety recall for a power steering problem in the Cobalt unrelated to the Defective Switch, in which it acknowledged that loss of power steering, standing alone, constituted a “defect . . . relate[d] to motor vehicle safety” and thus warranted recall action. The Defective Switch, of course, caused more than just loss of power steering; it also caused loss of other electrical systems. This was known by many within GM by no later than 2004—even if they did not appreciate precisely what electrical system components were affected (*e.g.*, the airbag SDM). Yet at no time before February 2014 did GM announce a recall for cars associated with the Defective Switch.

GM Identifies the Connection Between the Ignition Switch and Airbag Non-Deployment and Initiates a Formal Investigation

57. Many of the deaths and serious injuries associated with airbag non-deployment discussed in the foregoing paragraphs became the subject of legal claims—formal and informal—against GM. Certain GM lawyers, aided by the Airbag FPA Engineer and others like him who assisted in evaluating causes of crashes, realized by no later than early 2011 that a number of these non-deployment cases involved some sort of “anomaly” in the ignition switch. Specifically, in connection with the Tennessee Crash, discussed above, a GM engineer explained to legal staff that when the ignition switch power mode status is in Off (as it was in that case), the SDM “powers down,” and the airbags fail to deploy. The engineer further opined that the “a crash sensing system ‘anomaly’” resulting in a power mode status of Off had indeed caused non-deployment in the Tennessee Crash case.

58. This crash sensing “anomaly” risked the prospect of punitive damages. Three months later, GM settled the Tennessee Crash case.

59. Just days before that settlement, a 15-year-old girl in South Carolina crashed her mother’s 2007 Cobalt and suffered significant injuries when the airbag did not deploy. The power mode status was recorded as Accessory at the time of the crash. GM engineers evaluating the crash theorized that, as in the case of the Tennessee Crash, the non-deployment here may have been caused by a crash sensing “anomaly” related to the ignition switch.

60. Meanwhile, the GM attorney principally responsible for airbag non-deployment claims (the “GM Airbag Attorney”), who had become familiar with a number of Cobalt non-deployment incidents, grew concerned that the “anomaly” identified in these cases was getting insufficient attention from the PI group, which was supposed to investigate and work toward

remediating safety problems with cars on the road. At the time, no one within GM had yet sourced the “anomaly” to the Defective Switch’s torque.

61. Certain members of the legal department took the unusual step of arranging a meeting with PI. The meeting, which took place on July 27, 2011, was attended not just by the PI Senior Manager, who ran the PI group on a day-to-day basis, but also by his boss, the GM Director of Product Investigations (the “GM Safety Director”). Also present were the Airbag FPA Engineer, the GM Airbag Attorney, and the GM Safety Attorney. In advance of the meeting, the PI Senior Manager wrote to a colleague that the Cobalt airbag non-deployment problem was “ugly” and would make for “a difficult investigation.”

62. At the July 27, 2011 meeting, the Airbag FPA Engineer showed photographs of three of the most serious non-deployment crashes he had seen involving Cobalts, including photographs of the Tennessee Crash, and specifically highlighted his observations that many of these Cobalt non-deployment crashes had occurred while the power mode was in Accessory or Off.

63. After the meeting, the PI Senior Manager assigned an investigator (the “PI Investigator”) to examine the matter.

GM Identifies the Defective Switch as the Likely Cause of Airbag Non-Deployment in  
2005-2007 Model Year Cobalts

64. One of the first steps the PI Investigator took, in or about August 2011, was to gather learning and materials from the Airbag FPA Engineer who had been tracking non-deployment incidents in Cobalts since 2007, and who had been involved in evaluating a number of crashes that were the subject of Cobalt non-deployment legal claims. The Airbag FPA Engineer explained to the PI Investigator that he had observed that in some of these cases the power mode was recorded as either Accessory or Off at the time of the subject crashes. The Airbag FPA Engineer further noted that the non-deployment problem appeared to be limited to 2005-2007 model years of the Cobalt and appeared not to affect model years 2008 and later.

65. By March 2012, more than six months after he had been assigned to the matter, the PI Investigator had done little to advance the investigation. The GM Airbag Attorney called another meeting with PI for March 15, 2012. Attendees at this meeting included the GM Safety Attorney, the GM Airbag Attorney, the GM Safety Director, the PI Investigator, the PI Senior Manager, and the Airbag FPA Engineer. During the meeting, the PI Investigator complained that he needed more support from GM’s electrical engineering group to investigate a potential electrical (as opposed to mechanical) explanation for the Accessory and Off power mode recordings in many of the subject crashes.

66. Two weeks later, the Airbag FPA Engineer, members of GM's electrical engineering group, and others travelled to an auto salvage yard to examine potential electric problems related to the ignition switch—to see whether, as the PI Investigator and others had posited, the Accessory and Off power mode status recordings within the SDMs of the subject vehicles were attributable to an electrical “bounce” in the ignition switch.

67. At the yard, one of the engineers noticed that the effort needed to turn the ignition switch of the 2006 Cobalt they were examining was low. The group immediately dispatched one of their members to retrieve fish scales from a local bait and tackle shop to measure the rotational force in this and other salvage yard Cobalts. A GM electrical engineer involved in the exercise (the “GM Electrical Engineer”) recorded the findings, noted the unusually low force needed to move the examined switches out of Run, searched and found records of customer complaints about the low torque issue, and located the 2005 Service Bulletin addressing the issue.

68. The next day, the GM Electrical Engineer reported to his own boss these findings and his view that a probable root cause of the non-deployment problem was the Defective Switch moving out of Run to Accessory or Off. And that same day, the boss reported all of this to the PI Senior Manager and to the GM Safety Attorney.

69. At around the same time, the plaintiffs in a lawsuit stemming from the Virginia Crash, referenced above, located the 2005 Service Bulletin and identified the Defective Switch described therein as the cause of non-deployment in the vehicle at issue in that case. The GM Airbag Attorney identified the 2005 Service Bulletin as potentially related to the Virginia Crash.

70. In an April 23, 2012 email responding to a query about an ignition switch turning too easily from Run to Off, the PI Senior Manager wrote to colleagues claiming—inexplicably—that he had “not heard of” complaints about low torque in the “Cobalt or other models” since 2005, when the first PI examination was conducted and closed with the issuance of the 2005 Service Bulletin. The PI Investigator, meanwhile, pressed electrical engineers to continue to look into other possible causes of non-deployment, beyond the low torque problem.

71. No one from PI ushered the matter into the first stage of the formal recall process, the ISR, at this time. This approach represented a stark contrast even to the way in which the Defective Switch itself had been handled in 2005. Back then, *before* the dangerous connection to airbag non-deployment had been drawn, PI had promptly introduced the matter into the ISR.

72. In May 2012, the GM Safety Attorney asked a GM Vice President to act as an “Executive Champion” in order to propel the matter forward. During the first meeting chaired by this Executive Champion, on May 15, 2012, the GM Electrical Engineer presented his view that the Defective Switch was the cause of non-deployment in the affected Cobalt models. Those in attendance included the GM Safety Attorney, the GM Safety Director, the PI Senior Manager,



the PI Investigator, and others. The Executive Champion encouraged confirmation of this hypothesis through more scientific study.

73. Days later, on May 22, 2012, such confirmation was obtained. The GM Electrical Engineer, the PI Investigator, and others traveled once more to an auto salvage yard and, using equipment much more sophisticated than fish scales, conducted a thorough study of torque in the ignition switches of several model years of Cobalt, Ion, and other cars. The results confirmed that the majority of vehicles from model years 2003 through 2007 exhibited torque performance below the Torque Specification that GM had adopted in 2001. They also showed that starting somewhere in model year 2007 (that is, for vehicles produced at some point in 2006), the torque values were higher and within specification.

74. The observed discrepancy was, of course, due to the ignition switch part change that the Switch DRE had ordered in April 2006. But neither anyone from PI nor others working on the airbag non-deployment investigation in the spring of 2012 knew yet about that change; the part number was the same for the Defective Switch and the new one. Indeed, when the PI Investigator asked the Switch DRE in early 2012 to detail any changes that might account for the discrepancy observed at the salvage yard, the Switch DRE denied any of relevance. This was baffling to the PI Investigator and others.

75. Still, the engineers involved knew that studied cars built before a certain point in 2006 were equipped with low-torque ignition switches, and that low torque in an ignition switch could result in airbag non-deployment. At this time, no further engineering tests were conducted to explore any other purported root cause of the observed non-deployment pattern or to compare the 2005 through 2007 model year Cobalt ignition switches with those of later model years.

76. On June 12, 2012, three weeks after the May 2012 salvage yard expedition, an expert retained by the Virginia Crash plaintiffs issued a report. Noting both the 2005 Service Bulletin and the Indiana University study from 2007 that had identified a connection between the Defective Switch and non-deployment of an airbag in a fatal Cobalt crash, the expert opined that the Defective Switch was indeed responsible for non-deployment in the Virginia Crash. In early July, outside counsel for GM forwarded the Virginia Crash expert's report to the GM Airbag Attorney. In late July, the GM Airbag Attorney forwarded the Indiana University study to the PI Senior Manager, the GM Safety Attorney, and the Airbag FPA Engineer.

77. At a meeting among GM lawyers in late July 2012 in which the Virginia Crash expert's report was discussed, a newly hired GM attorney asked the group why the Cobalt had not been recalled for the Defective Switch. Those present explained that the engineers had yet to devise a solution to the problem but that engineering was looking into it. The new attorney took from this that the GM legal department had done all it could do.

78. The PI Investigator, the PI Senior Manager, the GM Safety Attorney, the GM Safety Director, and others met at lengthy intervals through the summer and fall of 2012 and early 2013 to consider potential solutions and further explore why the defect condition appeared to be limited to earlier model years. As one of the several Executive Champions who would be tasked with overseeing these meetings from early 2012 through 2013 has explained, the purpose of the meetings was *not* to identify the root cause of the problem, which had by approximately the spring of 2012 been traced to the Defective Switch, but rather to develop the optimal remedy for the defect condition and set with precision the scope of the anticipated recall. Certain GM personnel wanted to be sure that the fix adopted for the problem would be affordable and yet appeal to consumers; that GM would have sufficient parts on hand to address the recall; and that GM representatives would be able to fully articulate to NHTSA and the public a “complete root cause” accounting for the discrepancy between the earlier and later vehicle populations.

#### GM's Representations to NHTSA About Its Recall Process

79. At the same time, the manner in which the responsible GM personnel were approaching the Defective Switch and its deadly consequences in 2012 contrasted with the picture the Company was presenting to NHTSA about its recall process.

80. On October 22, 2012, certain GM personnel, including the GM Safety Director, met with NHTSA officials in Washington, D.C., and gave a description of the Company's recall process intended to assure the regulator that safety issues were routinely addressed in a methodical and efficient fashion. The presentation, which touted a “common global process” with “standard work templates,” explained that the first step toward potential recall involved investigation by PI of the suspected safety problem. Then, according to the presentation, the matter would be placed promptly into the FPE process, which was controlled not by engineers but by personnel in charge of Quality. At this stage, GM further explained, the FPET would consider the logistics of implementing the proposed recall or other contemplated action; the FPERC would recommend the particular field action to be taken (recall or, for example, a customer advisory); and, in short order thereafter, the EFADC would either make the final decision concerning that recommended field action or order “further study.” According to individuals who attended this meeting and others in 2012 and 2013, GM gave the impression that its recall process was linear, robust, uniform, and prompt.

81. To the extent this presentation may have accurately described GM's general recall process and handling of other defects, it did not accurately describe GM's handling of the Defective Switch (about which NHTSA would remain unaware until 2014). By approximately

five months prior to this presentation, certain GM personnel had identified what they knew to be a dangerous safety defect and had not started it into the first phase of the recall process.<sup>6</sup>

GM Delays Recall After Learning of the 2006 Switch Change

82. By early 2013, the Defective Switch *still* had not been introduced into the FPE process. GM was exploring optimal remedies and trying to understand why the defect appeared to affect only a limited population. Those involved remained unaware of the part change that the Switch DRE had made back in April 2006—the change that explained why cars built after around late 2006 seemed not to be affected.

83. Meanwhile, during this same period, GM lawyers were engaged in heavy litigation related to the Georgia Crash, referenced above. The Georgia Crash plaintiffs' attorney had learned about the 2005 Service Bulletin, and had developed a theory that the Defective Switch caused the driver to lose control of her vehicle. The attorney was seeking discovery related to the bulletin and the Defective Switch more generally. He was also asking about any design changes that had been made to the switch.

84. GM denied that any such design changes had been made that would affect the amount of torque it takes to move the key from Run to Accessory.

85. Then, on April 29, 2013, the Georgia Crash plaintiffs' attorney took the deposition of the Switch DRE. During that deposition, the plaintiffs' attorney showed x-ray photographs of the ignition switch from the subject vehicle (the Defective Switch) and another switch from a later model year Cobalt (one installed after implementation of the Switch DRE's April 2006 part change directive). The photographs showed that the detent plunger in the Georgia Crash car was much shorter—and therefore would have had much lower torque performance—than the one in the later model year Cobalt. The Switch DRE, confronted with these photographs, continued to deny knowledge of any change to the switch that would have accounted for this difference.

86. But, as the Switch DRE has acknowledged, he knew almost immediately following his deposition that there had been a design change to the switch following production of the model year 2005 Cobalt, and that he must have been the engineer responsible for that design change. He knew as much because, the day after the April 29, 2013 deposition, he

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<sup>6</sup> As NHTSA and GM understood, GM's regulatory obligation to disclose safety defects within five days of their discovery was an obligation of the Company and not of any individual employee. Indeed, as NHTSA further understood, neither the GM Safety Director nor any other GM employee was authorized to disclose a safety defect to NHTSA without a decision from the EFADC that such a defect existed.

personally collected and took apart switches from a 2005 Cobalt and a later model year Cobalt and observed the difference in lengths of their respective detent plungers.

87. The Switch DRE has said that he recalls communicating these observations to his boss and to another supervisor and being advised to let the legal department handle the matter.

88. The GM Safety Attorney learned what transpired during the Switch DRE's deposition. Having previously received a request from the PI group for retention of an outside expert (the "Switch Expert") to help determine why the Defective Switch seemed to affect only a limited vehicle population, the GM Safety Attorney, on or about May 2, 2013, authorized retention of the Switch Expert in connection with the Georgia Crash case. The PI Investigator and the PI Senior Manager did not participate in meetings with the Switch Expert until the Switch Expert presented his conclusions following the settlement of the Georgia Crash case. The PI Investigator understood that he was to put his own investigation on hold pending the Switch Expert's evaluation.

89. Of course, by the time the Switch Expert had been retained, certain GM personnel had already learned from the Georgia Crash plaintiffs' attorney about the design change to the Defective Switch, and the Switch DRE had already confirmed that the change had in fact occurred. GM thus had an explanation for why the defect condition did not appear to affect cars built after the middle of 2006. And, indeed, some within GM had known for approximately a year that a confirmed population of GM's compact cars was equipped with the Defective Switch. Yet *still* there was no recall; indeed, still there was no move to even place the matter into the FPE process. Instead, GM personnel awaited the study and conclusions of the Switch Expert.

90. Meanwhile, on June 22, 2013, a 23-year-old man was killed in a crash on a highway near Roxton Pond, Quebec after his 2007 Cobalt left the road and ran into some trees. The driver-side airbag in the Cobalt failed to deploy. The power mode status was recorded as Accessory.

#### GM Receives Documentary Evidence of the Part Change and Finally Begins the Recall Process

91. By July 2013, the Switch Expert had confirmed what the Georgia Crash plaintiffs' expert and the Switch DRE had known since no later than April 2013: Cobalts from model years 2008 through 2010 had longer detent plungers and springs than those from model years 2005 and 2006. GM's outside counsel in the Georgia Crash case urged GM in-house lawyers to settle it: "[T]here is little doubt that a jury here will find that the ignition switch used on [the Georgia Crash car] was defective and unreasonably dangerous, and that it did not meet GM's own torque specifications. In addition, the [engineering inquiry documents about the Defective Switch from 2004 and 2005] and the on-going FPE investigation have enabled plaintiffs' counsel to develop a record from which he can compellingly argue that GM has known about this safety defect from the time the first 2005 Cobalts rolled off the assembly line and essentially has done nothing to

correct the problem for the last nine years.”

92. GM followed its outside counsel’s advice and settled the Georgia Crash case at the end of August 2013, agreeing to pay \$5 million.

93. Then, in late October 2013, GM received documentary confirmation from the Switch Supplier that the Switch DRE had in fact directed a part change to fix the Defective Switch in April 2006. This evidence further showed that the part was changed without a corresponding change to the part number.

94. Only at this point did GM finally place the Defective Switch matter into the formal FPE process. An ISR was scheduled for November 5, 2013. Meanwhile, on October 30, the PI Investigator, who was by now back working on the matter and helping to lay the practical groundwork for a recall, asked an employee in charge of ordering vehicle parts what the costs of new ignition switch components would be for the 2005 through 2007 Cobalts.

#### GM Makes Further Statements to NHTSA About Its Recall Process

95. On July 23, 2013, one day after GM’s outside counsel had advised GM to settle the Georgia Crash case and noted that plaintiffs’ counsel could make a “compelling” argument that GM “essentially has done nothing to correct” the Defective Switch “for the last nine years,” the GM Safety Director received an email from NHTSA’s Director of Defects Investigation accusing GM of being “slow to communicate” and “slow to act” in the face of safety defects—including defects unrelated to the Defective Switch (about which NHTSA remained unaware) but related to non-deployment of airbags.

96. Two days later, certain GM personnel, including the GM Safety Director, met with NHTSA to try to quell the agency’s concerns. According to notes taken by the GM Safety Director at that meeting, NHTSA agreed with GM that the Company appeared to have a “robust and rigorous process” for evaluating and addressing safety issues, but worried that it “tend[ed] to focus on proving the issue [wa]s not a safety defect.”

97. On November 7, 2013, two days after the ISR concerning the Defective Switch, certain GM personnel met again with NHTSA, this time to give a more in-depth presentation targeted at assuring the regulator that GM was “responsive” and “customer focused” when it came to safety concerns. Although the presentation did not specifically address the Defective Switch-related airbag non-deployment problem—which, having just entered the recall process within GM, remained unknown to NHTSA—it did address concerns related to airbag non-deployment more generally.

98. First, certain GM personnel showed NHTSA slides that touted the increasing swiftness with which GM had addressed safety defects from 2008 through 2012. One graph



reflected that the average time taken from identification of the issue through to execution of the recall was 160 days in 2008 and 84 days in 2012. It further showed that the average time an issue remained in the “pre-FPE” stage was 105 days in 2008 and 33 days in 2012. And the average number of days between entry into the FPE process and recall decision was 15 days in 2008 and 13 days in 2012.

99. Other portions of GM’s presentation suggested that any airbag defect that presented with a failure to warn the driver and/or certain other aggravating factors would be recalled swiftly.

#### GM Delays Recall for Three More Months

100. Although the Defective Switch matter entered the ISR on November 5, 2013, after approximately *804 days* of formal investigation, and although GM had at the November 7 meeting with NHTSA touted an average lag of just 13 days between entry into the FPE process and recall approval by the EFADC, GM would not ultimately decide to conduct a recall for the Defective Switch until January 31, 2014. The recall was announced to NHTSA seven days later, on February 7, 2014.

101. The individual principally responsible for shepherding the matter through the FPE process was GM’s FPE Director, who worked closely with the GM Safety Director, the GM Safety Attorney, and a member of the EFADC responsible for deciding whether to recall.

102. As a general matter, EFADCs were scheduled weekly. The Defective Switch matter was initially contemplated for inclusion on the agenda of an EFADC scheduled for November 18. Citing the issue’s “complex[ity],” however, an assistant to the FPE Director recommended—and the FPE Director agreed—that the matter be put off until an EFADC scheduled for December 3.

103. The matter did not go to the EFADC on December 3, however. Instead, it was pushed to December 17. On December 2, the FPE Director met with the GM Safety Director, the PI Investigator, the GM Safety Attorney, and a few others in yet another “offline” meeting to discuss the matter. Then, on December 16, the issue was the subject of an FPERC meeting that had been scheduled to occur right before the December 17 EFADC meeting.

104. After that meeting, the FPE Director expressed concern about “execution details” of the recall. She explained to one of the three EFADC decision-makers that “[t]he absolute last thing we need to do from a customer perspective is to rush a decision, post it on the NHTSA website that [sic] we have a safety decision but we cannot fix the customer vehicles for some period of time.” The FPE Director informed this decision-maker that “we aren’t ready for a decision” because there were “[t]oo many items on how we know how the fix will perform and

the competitive solutions.” The decision-maker pledged to “push [to] do additional follow up on this prior to a decision.”

105. The EFADC meeting on December 17, 2013 yielded no decision, and further “study” was directed.

106. By this time, all involved understood—and some had for a period of time understood—that a Cobalt recall was inevitable.

107. Some within GM—including the GM Safety Director and the GM Safety Attorney—openly expressed concern about how the “timeline” of GM’s response to the Defective Switch would look to NHTSA. As noted, a manufacturer must, under applicable regulations, report a known safety defect to NHTSA within five business days of its discovery. Here, certain GM personnel knew by approximately the spring of 2012 that the Defective Switch posed a serious safety issue because it disabled airbags in situations when they should have deployed. Yet more than a year and a half after that discovery, GM still had not conducted a recall.

#### Recall

108. On January 31, the voting members agreed that a recall of the affected model year Cobalts, G5s, and Pursuits was warranted. On February 7, 2014, GM announced the recall to the public and NHTSA.

109. Although other models—the Ion, most notably—were likewise equipped with the Defective Switch, these were not recalled on February 7. The stated reasons for not including these other models varied. Some believed there were differences in electronic architecture and physical switch placement between the unrecalled cars and the recalled cars, such that the risk of switch movement and/or airbag non-deployment was reduced. Others cited an error by the PI Investigator in collecting incident data about the Ion, which they said gave the erroneous impression that there was no comparable problem with the Ion.

110. In any event, following intense criticism from the press about the limited scope of the February 7 recall, GM held another EFADC meeting on February 24, 2014 to consider the affected model years of the Ion, Sky, HHR, and Solstice. Voting members agreed that the February 7 recall should be expanded to encompass these other models. The next day, GM announced that decision.

#### GM’s Certifications for Pre-Owned Vehicles

111. All of the cars subject to the February and March 2014 airbag non-deployment recalls were relatively old. GM stopped manufacturing the Ion in 2006; stopped manufacturing

the Cobalt, the G5, the Sky, and the Solstice in 2009; and stopped manufacturing the HHR in 2010.

112. From in or about the spring of 2012, when certain GM personnel knew that the Defective Switch could cause airbag non-deployment, through at least in or about May of 2013, GM dealerships (which GM had not made aware of the issue) continued to sell “certified pre-owned” cars equipped with the Defective Switch. GM, which profited indirectly from these sales, certified the safety of the vehicles to the public, explaining that the certification process involved testing of over a hundred components, including, specifically, the ignition system.

113. But the safety certification was made despite there being no change or alteration to either the ignition switch itself or the accompanying key in these cars. The Defective Switch was left intact and unremedied.

114. Approximately 800 consumers purchased certified pre-owned vehicles equipped with the Defective Switch. The GM dealer certifications thus may have caused consumers who relied on the certifications to buy vehicles that they may incorrectly have believed to be safe.

#### Conclusion

115. As detailed above, starting no later than 2003, GM knowingly manufactured and sold several models of vehicles equipped with the Defective Switch. By approximately the spring of 2012, certain GM personnel knew that the Defective Switch could cause frontal airbag non-deployment in at least some model years of the Cobalt, and were aware of several fatal incidents and serious injuries that occurred as a result of accidents in which the Defective Switch may have caused or contributed to airbag non-deployment. This knowledge extended well above the ranks of investigating engineers to certain supervisors and attorneys at the Company—including GM’s Safety Director and the GM Safety Attorney. Yet, GM overshot the five-day regulatory reporting requirement for safety defects by approximately 20 months. And throughout this 20-month period, GM failed to correct its 2005 statement that the Defective Switch posed no “safety” problem.



Exhibit D  
to the Deferred  
Prosecution Agreement

PREET BHARARA  
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Southern District of New York  
By: JASON H. COWLEY  
ALEXANDER J. WILSON

Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, New York 10007

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>VERIFIED COMPLAINT</u>
	:	
-v.-	:	15 Civ. _____
	:	
\$900,000,000 in United States	:	
Currency,	:	
	:	
Defendant <i>in rem</i> .	:	
	:	
- - - - -	:	-x

Plaintiff United States of America, by its attorney, PREET BHARARA, United States Attorney for the Southern District of New York, for its Verified Complaint (the "Complaint") alleges, upon information and belief, as follows:

I. JURISDICTION AND VENUE

1. This action is brought by the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C), seeking the forfeiture of \$900,000,000 in United States Currency (the "Defendant Funds" or the "defendant-in-rem").

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1355.

3. Venue is proper pursuant to 28 U.S.C. § 1355(b)(1)(A) because certain acts and omissions giving rise to the forfeiture took place in the Southern District of New York, and pursuant to Title 28, United States Code, Section 1395 because the defendant-in-rem shall be transferred to the Southern District of New York.

4. The Defendant Funds represent property constituting and derived from proceeds of wire fraud in violation of Title 18, United States Code, Sections 1343, and property traceable to such property; and are thus subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C).

## II. PROBABLE CAUSE FOR FORFEITURE

5. General Motors Company ("GM"), an automotive company headquartered in Detroit, Michigan, entered into a Deferred Prosecution Agreement with the United States, wherein, *inter alia*, GM agreed to forfeit a total of \$900,000,000, i.e., the Defendant Funds, to the United States. GM agrees that the Defendant Funds are substitute *res* for the proceeds of GM's wire fraud offense. The Deferred Prosecution Agreement, with the

accompanying Statement of Facts and Information, is attached as Exhibit A and incorporated herein.

### III. CLAIM FOR FORFEITURE

6. The allegations contained in paragraphs one through five of this Verified Complaint are incorporated by reference herein.

7. Title 18, United States Code, Section 981(a)(1)(C) subjects to forfeiture "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to a violation of . . . any offense constituting 'specified unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense."

8. "Specified unlawful activity" is defined in 18 U.S.C. § 1956(c)(7) to include any offense under 18 U.S.C. § 1961(1). Section 1961(1) lists, among others offenses, violations of Title 18, United States Code, Section 1343 (relating to wire fraud).

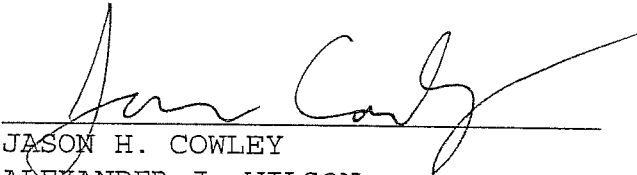
9. By reason of the foregoing, the defendant-in-rem is subject to forfeiture to the United States of America pursuant to Title 18, United States Code, Section 981(a)(1)(C), as it is substitute *res* for property derived from wire fraud, in violation of Title 18, United States Code, Section 1343.

WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the defendant-in-rem and that all persons having an interest in the defendant-in-rem be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the defendant-in-rem to the United States of America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York  
September 16, 2015

PREET BHARARA  
United States Attorney for  
Plaintiff United States of America

By:

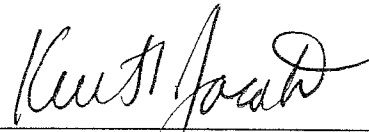
  
\_\_\_\_\_  
JASON H. COWLEY  
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(212) 637-2200

VERIFICATION

STATE OF NEW YORK )  
COUNTY OF NEW YORK :  
SOUTHERN DISTRICT OF NEW YORK )

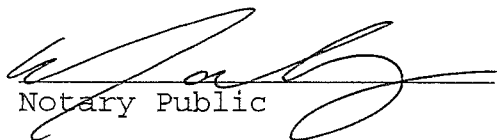
KENNETH W. JACOUTOT, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Transportation, Office of Inspector General; that he has read the foregoing Verified Complaint and knows the contents thereof; and that the same is true to the best of his knowledge, information and belief.

The sources of deponent's information and the grounds of his belief are his personal involvement in the investigation, and conversations with and documents prepared by law enforcement officers and others.



\_\_\_\_\_  
Kenneth W. Jacoutot  
Special Agent  
Department of Transportation,  
Office of Inspector General

Sworn to before me this  
16 th day of September, 2015

  
Notary Public

**NAEEM A. CONWAY**  
Notary Public, State of New York  
No. 01CO6110667  
Qualified in New York County  
Commission Expires June 01, 2016

# Exhibit 11

1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

2 -----x  
3 IN RE GENERAL MOTORS LLC  
IGNITION SWITCH LITIGATION,

14 MD 2543 (JMF)  
Telephone Conference

4 -----x  
5 New York, N.Y.  
December 18, 2020  
6 9:30 a.m.

7 Before:

8 HON. JESSE M. FURMAN,

9 District Judge

10 APPEARANCES

11 HAGENS BERMAN SOBOL SHAPIRO LLP  
Attorneys for Plaintiffs

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SEAN R. MATT

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BY: ELIZABETH J. CABRASER  
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BY: WILLIAM WEINTRAUB

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1 means that, on average, for compensable time, those who  
2 contributed to the results of the class would be receiving less  
3 than a third of their normal hourly fees.

4 As your Honor is aware, we tried throughout this case  
5 to prosecute it both vigorously and intensively, but cost  
6 effectively, and I think that's reflected in the blended  
7 average hourly rate that we reported into the Court on all of  
8 this time, and, again, that rate will go down because of the  
9 negative multiplier effect.

10 The intensity of the litigation is also demonstrated  
11 by the level of costs that were necessarily incurred by those  
12 who worked for the economic loss class throughout the case, and  
13 we're requesting that reimbursement in the amount of  
14 approximately \$9.9 million.

15 We will turn to the allocation of the aggregate fee  
16 award, if and after this Court awards it, by going through the  
17 time records, making allocation recommendations to the counsel  
18 involved, and that's the procedure that was utilized by class  
19 counsel in the Toyota sudden acceleration case. It resulted in  
20 an agreed allocation that was thereafter approved by the Court,  
21 and we would undertake to do the same here based on the very  
22 thorough contemporaneous time and cost records that we have.

23 THE COURT: All right. Thank you.

24 Go ahead.

25 MS. CABRASER: One thing, your Honor – and I should

1 have said this at the outset – among the factors that this  
2 Court looks at in awarding fees, the three-part test, the  
3 *Goldberger* factors, which start with looking at the percentage  
4 of the fund, that test also looks at the public interest. And  
5 as your Honor knows, safety was a concern here of the parties  
6 throughout, and so one of the things that we're very encouraged  
7 by with respect to the very enthusiastic reception of the  
8 settlement by the class is that we are already close to 520,000  
9 claims, although the claims period doesn't close until  
10 March 18th of 2021.

11 With respect to the vehicles involved in these claims  
12 that have been presented for recall repairs to correct the  
13 alleged safety defects, over 32,000 vehicles have already  
14 gotten those repairs.

15 So this settlement is working both economically and  
16 with respect to the public policy of vehicle safety.

17 THE COURT: Terrific. Thank you.

18 New GM. Mr. Godfrey or someone else?

19 MR. GODFREY: Yes, your Honor. This is Rick Godfrey.  
20 Good morning, your Honor.

21 As the Court knows, this MDL, when it was first  
22 formed, was one of the largest MDLs in many years. We had over  
23 4,000 personal injury and wrongful death claimants, we had over  
24 a hundred class actions that eventually were consolidated  
25 involving multiple recalls. If the Court approves the proposed

1 economic clause class settlement today, involving almost over  
2 30 million individual class members and over 15.5 million  
3 vehicles, this MDL will be down to ten remaining individual  
4 personal injury/wrongful death claimants in total.

5 In addition, the settlement wraps up an even  
6 longer-running piece of litigation in the bankruptcy court  
7 involving the GUC Trust, old GM, et cetera, and, thus, this  
8 settlement, proposed settlement, that the parties have tendered  
9 to the Court, as the Court noted at the start of this hearing,  
10 is a significant event in the life of this litigation. We are  
11 not going to repeat, and I am not going to go into, unless the  
12 Court has questions, the *Grinnell* factors or the factors under  
13 Rule 23(e). We have briefed those extensively in our brief, as  
14 have the plaintiffs, and I think have demonstrated on the  
15 record, the extensive record, before the Court that the  
16 standards of *Grinnell* and Rule 23(e) are satisfied.

17 Many years ago, in a 1987 case, Judge Posner, writing  
18 for the Second Circuit, in a case called *Mars Steel*, overruled  
19 merits objections to a class settlement, and in so doing, after  
20 finding that the settlement was fair, reasonable, and adequate,  
21 in a classically descriptor phrase of Judge Posner, he observed  
22 that the proof is in the pudding and, indeed, in the eating.  
23 And that's the case here. We have virtually no opt-outs, given  
24 the size of the class, very, very few. We have five  
25 objections, not on the merits. We have no state regulator

# GM Ignition Switch Economic Settlement

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Claim](#)[VIN  
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## WELCOME TO THE GENERAL MOTORS IGNITION SWITCH ECONOMIC SETTLEMENT WEBSITE

**THIS SETTLEMENT RELATES TO CURRENT AND FORMER OWNERS AND LESSEES OF GM VEHICLES THAT WERE SUBJECT TO CERTAIN 2014 RECALLS.**

Para documentos en Español, por favor haga clic [aquí](#).

**Important Update:** In accordance with the [Status Report](#) filed with the Court, distribution to eligible Settlement Claimants commenced the week of **November 22 to 28, 2021**.

The deadline to submit a Claim Form was **April 20, 2021**.

The deadline to perform the Recall repair (the "Final Recall Repair Date") was **June 19, 2021**.

In accordance with the Court documents, the deadline for check reissues was May 20, 2022. All uncashed Settlement Payments are in the process of being escheated to the unclaimed property division of the State in which the Class Member resided.

### What is the Settlement About?

This class settlement of economic loss claims by persons who owned or leased GM vehicles that were recalled in 2014 was approved by the Federal District Court. The recalls involved the ignition system, key rotation, electronic power steering and/or side airbag wiring. Plaintiffs claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”), the Motors Liquidation Company GUC Trust (“the GUC Trust”) and the Motors Liquidation Company Avoidance Action Trust (“the AAT”) deny these allegations. Plaintiffs, the GUC Trust, New GM and the AAT agreed to a settlement to avoid the risk and cost of further litigation.

## Who Is Included in the Settlement?

The Class, which is for Settlement purposes only, is defined as:

All Persons who, at any time as of or before the Recall Announcement Date of the Recall(s) applicable to the Subject Vehicle, own(ed), purchase(d), and/or lease(d) a Subject Vehicle in any of the fifty States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and all other United States territories and/or possessions.

The Class is comprised of five Subclasses. If a Class Member owned and/or leased more than one Subject Vehicle or a Subject Vehicle subject to more than one of the Recalls, they may be in more than one Subclass. More information on the five Subclasses can be found in [FAQ 3](#).

Some persons, however, are excluded from the Class, including daily fleet rental companies, governmental entities, authorized GM dealers and persons who already released their claims as part of a different settlement.

## How Do I Get a Payment?

A Class Member must have filed an eligible claim by April 20, 2021, in order to receive a payment.

As explained in the status report, the chart below identifies by Subclass the number of Settlement Claims approved as eligible for a settlement payment. Subclass membership was determined by the applicable Recall(s) for the Subject Vehicle. Please see [FAQ 3](#) for a more detailed description of each Subclass.

<b>Subclass</b>	<b>Number of Settlement Claims Eligible For Settlement Payments</b>
Subclass 1 - The Delta Ignition Switch Subclass	185,670
Subclass 2 - The Key Rotation Subclass	1,037,237
Subclass 3 - The Camaro Knee-Key Subclass	40,725
Subclass 4 - The Electric Power Steering Subclass	129,483

Subclass 5 - The Side Airbag Subclass	80,841
<b>Total Number of Settlement Claims per Subclass Eligible For Settlement Payments</b>	1,473,956

Accordingly, after performing the calculation listed in footnote 1 of the Settlement Claim Review Protocol, the settlement payment amount for an eligible Settlement Claim in each Subclass is as follows:

<b>Subclass</b>	<b>Settlement Payment Amount</b>
Subclass 1 - The Delta Ignition Switch Subclass	\$97.43
Subclass 2 - The Key Rotation Subclass	\$73.07
Subclass 3 - The Camaro Knee-Key Subclass	\$48.72
Subclass 4 - The Electric Power Steering Subclass	\$48.72
Subclass 5 - The Side Airbag Subclass	\$48.72
Subclasses 1 & 4 - Delta Ignition Switch & Electric Power Steering	\$146.15

Distribution to Settlement Claimants for eligible Settlement Claims commenced the week of November 22 to 28, 2021. Any and all communication from a Settlement Claimant to the Class Action Settlement Administrator must include the Settlement Claimant's full name, current and former address(es), Unique ID and Claim Number, if known, along with any other identifying information.

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

ACTION	EXPLANATION
<p><b>SUBMIT A CLAIM FORM</b>            Deadline: April 20, 2021            (Online or Postmarked)  <i>This deadline has passed.</i></p>	<p>A Class Member must have filed an eligible claim in order to receive a payment from the \$121.1 million Settlement Fund.</p> <p>Claims must have been postmarked, emailed, or submitted online by <b>April 20, 2021</b>.</p> <p>Procedures for the administration of claims and allocation of the Settlement Fund to Class Members are described in the <b>Settlement Claim Review Protocol</b> and <b>Allocation Decision</b>, which are exhibits to the <b>Amended Settlement Agreement</b>.</p> <p>More information can be found in <b>FAQ 5</b>.</p>
<p><b>EXCLUDE YOURSELF OR "OPT OUT"</b>            Deadline: October 19, 2020            (Postmarked)  <i>This deadline has passed.</i></p>	<p>Class Members who excluded themselves - or "opted out" - from the Settlement will not receive any Settlement benefits.</p> <p>Only Class Members who opted out of the Settlement by the deadline retain the right to sue New GM, the GUC Trust and/or the AAT and certain other related parties about the same claims alleged in this lawsuit, at their own expense.</p> <p>More information can be found in <b>FAQ 8</b>.</p>
<p><b>OBJECT</b>            Deadline: October 19, 2020            (Postmarked)  <i>This deadline has passed.</i></p>	<p>Class Members could object to the Settlement and explain why they did not like the Settlement by writing to the Federal District Court, but the deadline for doing so has passed.</p> <p>More information can be found in <b>FAQ 10</b>.</p>
<p><b>GO TO THE HEARING</b>            December 18, 2020 at 9:30 a.m.  <i>This hearing has passed.</i></p>	<p>Pursuant to the hearing held on <b>December 18, 2020</b>, the Court issued Final Approval of the Settlement.</p> <p>More information can be found in <b>FAQs 11-13</b>.</p>
<p><b>DO NOTHING</b></p>	<p>Class Members who did not submit a claim in a timely manner are not eligible to receive Settlement benefits.</p> <p>Class Members who did not opt out of the Settlement, as described above, gave up their right to sue New GM, the GUC Trust, the AAT and certain other related parties about the economic loss claims.</p>



## FOR MORE INFORMATION

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Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA  
LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF GLEN STEVICK**

I, **GLEN STEVICK**, of the City of Berkeley, in the State of California of the United States of America, **MAKE OATH AND SAY:**

1. I have been retained by Rochon Genova LLP, counsel for the plaintiffs, as an expert witness to provide my opinion in relation to the Plaintiff's motion for certification in the above-named court proceeding.

2. I am a mechanical engineer with almost 40 years of experience. I specialize in failure analysis and design of mechanical-electrical equipment and systems common to various industries, including the evaluation of switches, interlocks, control systems, design, and risk assessment. I am the founder of Berkeley Engineering And Research, Inc. ("BEAR"). I hold a BSc in

Mechanical Engineering from Michigan Technological University. I also hold a MSc and Ph.D. in Mechanical Engineering from the University of California, Berkeley.

3. Attached as **Exhibit "A"** is a true copy of my expert report, which provides the details of my qualifications. I believe the opinions expressed in it to be true.

4. I understand my duties as an expert witness in this proceeding pursuant to Rule 4.1 of the Ontario *Rules of Civil Procedure*. Attached hereto as **Exhibit "B"** is my executed Acknowledgement of Expert's Duty Form.

SWORN before me at the City of )  
Berkeley, in the State of California of )  
the United States of America, this 3<sup>rd</sup> )  
day of June, 2020. )

*R Podolny*

\_\_\_\_\_  
A Commissioner, etc.

*Glen Stevick*  
\_\_\_\_\_  
GLEN STEVICK

# EXHIBIT "A"



**BERKELEY ENGINEERING AND  
RESEARCH INC**

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## Recall Report

*In Reference to*

**Class Action Regarding GM Canada Recalls**

*By Glen Stevick, Ph.D., P.E.  
Berkeley Engineering And Research Inc.  
June 1, 2020*

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## EXECUTIVE SUMMARY

In a passenger vehicle, an ignition switch activates the engine and the main electrical systems. Starting in the fall of 2002, General Motors (“GM”) began to employ an ignition switch in certain of its passenger vehicle models that was below GM’s own specifications and that failed to keep the power on to safety devices in circumstances drivers could encounter while driving. The ignition switches and ignition switch systems in the six Canadian recalls cited in the Proposed Second Fresh as Amended Statement of Claim (the “Statement of Claim”)<sup>1</sup> all include two principal common defects:

- (1) torque<sup>2</sup> can be easily applied to the key or accessories hanging on the key that would result in the ignition switch moving out of the RUN position while the vehicle is moving; and
- (2) The airbags and other safety features are turned off if the ignition switch is moved out of the RUN position, even if the vehicle is traveling at a high speed. The inadvertent movement of the ignition switch is a “single point of failure” for the airbags and other safety devices.

All Affected Models employed ignition switch designs are incapable of exerting sufficient torque (due to insufficient turning resistance and/or switch location) to prevent inadvertent rotation and engine shutdown. The easily moved ignition switch resulted in numerous “moving stalls” on the highway as well as loss of power on rough terrain. In many instances this occurred moments before a crash, with devastating consequences.

The low torque problem was exacerbated in most models by placing the ignition switch low on the steering column, in a location where it was prone to interact with the driver’s knee, contributing to inadvertent vehicle shutdown.

Furthermore, in all Affected Models, GM employed a sensing and diagnostic module (“SDM”) design that disabled critical safety features (maintaining engine power, braking assist, and steering assist and stability systems) if the ignition switch was not in the RUN position.<sup>3</sup> This design feature, common to all Affected Models, was particularly dangerous in light of the known susceptibility of GM ignition switches in the Affected Models to inadvertent rotation.

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1 See Canada Recalls 2014038 (and its expansion 2014060), 2014101, 2014246, 2014273, 2014243, 2014284.

2 “Torque” in this report, and in engineering generally, refers to a moment, the rotational equivalent of linear force. Torque is moment applied to rotate an object. Torque depends on the measure of force applied and the distance from the axis of rotation. The magnitude of torque is equal to the magnitude of the force times the distance to the center of rotation.

3 An SDM is a hardware controller which receives sensor inputs (such as speed) and emits a signal which activates or disables certain safety features, including airbags.

This was a defective single, common, point of failure, particularly in light of the switches' susceptibility to inadvertent rotation. This single point of failure has not been fixed to this day.

In general, all Affected Models suffered from the following common defects:

1. Ignition key's resistive torque too low;
2. Location of the ignition key low on the steering column, susceptible to interaction with the driver's knee;
3. As a result of (1) and / or (2), vehicles susceptible to moving stalls; and
4. As a result of SDM design, in case of a moving stall, critical safety features, including airbags and power steering, are disabled.

For more than a decade, GM failed to remedy these engineering failures. A report commissioned by GM's Board of Directors details a litany of engineering failures, deviations from accepted engineering practices, and outright deception.<sup>4</sup> As a result, the Affected Models<sup>5</sup> were prone to sudden and unexpected power loss while in motion.

GM did not commence recalls related to ignition switches until February 2014.<sup>6</sup> However, as detailed in my report, the recalls failed to fully remedy the ignition switch movement defect, and a single point of failure defect remained in all Affected Models. The recalls only attempted to address the low torque defect. Even in addressing this defect, the recalls did not go far enough. They failed to employ the "sure solution" of changing the location of the ignition switch on the steering column to a higher mount, where it would not risk interacting with the driver's knee.

Most importantly, even after GM's recalls, in all Affected Models, the SDM was designed in a way that shut down critical safety systems, including the air bags and power steering, in case of a moving stall. GM's actions constituted a complete failure of standard risk assessment in design, a process GM has played a significant role in developing.

In summary, GM engineers designed and put into production an ignition switch with a resistive torque roughly half its own specifications for being moved from the RUN position (to OFF or ACC) and often located the ignition switch in a position, typically low on the steering

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4 *Report to the Board of Directors of General Motors Company Regarding Ignition Switch Recalls* dated May 29, 2014, authored by Anton R. Valukas, the former United States Attorney for the Northern District of Illinois (the "Valukas Report").

5 Unless otherwise specified, capitalized terms in this report are as defined in the Plaintiffs' Statement of Claim.

6 Valukas Report, p. 11.



column, such that it was easily rotated by a driver's knee. In addition, in all Affected Models, GM employed an SDM design that turned off critical safety systems when the ignition switch was moved out of the RUN position, even if the car was in motion, sometimes moments before a crash. Despite a series of recalls, GM failed to remedy these problems to this day.

The consequences of decisions made by GM personnel starting in the fall of 2002 and the failure to correct those decisions over the following two decades lead to catastrophic results – an estimated 100 fatalities tied to defective ignition switches and faulty SDM logic resulting in airbag non-deployment.

## RISK ASSESSMENT

The Risk Assessment method typically used in the automobile industry is termed Failure Modes and Effects Analysis (FMEA). The method was developed in the 1940's by the U.S. Armed forces and formalized in 1949 with the introduction of Military Procedures document (MIL-P)-1629, "Procedures for Performing a Failure Mode Effect and Criticality Analysis." The objective of the method was to systematically list, rank, classify and assess failures according to their effect on mission success and the safety of personnel and equipment.<sup>7</sup> It was later adopted by numerous industries and the Apollo Space Program in its efforts to put a man on the moon. In the late 1970's Ford Motor Company brought the method to the automotive industry to deal with the safety and regulatory issues resulting from the Pinto affair.<sup>8</sup> In the 1980's the automotive industry began implementing FMEA and standardizing the methodology through the Automotive Industry Action Group ("AIAG") resulting in a reference manual co-authored by GM: "Potential Failure Mode and Effects Analysis FMEA," to be used by its suppliers which is now in its 4<sup>th</sup> edition.<sup>9</sup>

GM clearly knew what should be done in assessing risk in the design process and assessing risk after a car is in production as it is one of the cited contributors and copyright owners of the reference manual cited above. GM does not appear to have performed an acceptable level of risk assessment (using FMEA or other equivalent risk assessment methods) in the design process or in the investigation of moving stalls related incidents after the subject cars were in production. The fatalities related to the GM recalls are a direct result of GM failing to follow its own procedures and the standard of care in the automotive industry. None of these entities continued their assessment in the design process nor in the investigation of reported stalling problem to their logical end as required by the risk assessment standard of care in the automobile industry. A proper risk assessment would have resulted in engineers logically

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7 Effective FMEAs, by C.S. Carlson, John Wiley & Sons, 2012.

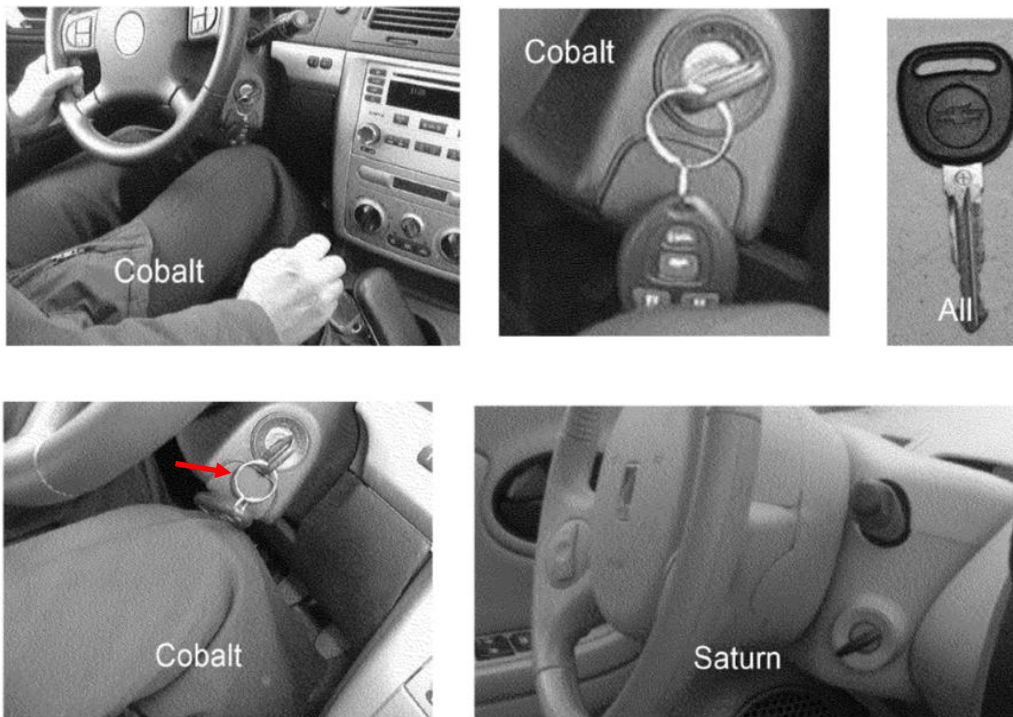
8 Ibid.

9 Potential Failure Mode and Effects Analysis FMEA, Reference Manual, 4th Edition, by Chrysler LLC, Ford Motor Company, General Motors Corporation, AIAG, 2008.

working through the complete ignition system and considering the question: what systems are turned off when an ignition switch is moved from the RUN position? Had they done so, a red flag regarding the safety of the vehicle occupants should have been raised. Moving the key from RUN to ACC or OFF results in total loss of motive power, stalling of the vehicle and disablement of the airbags and other safety features.

### TORQUE REQUIRED TO TURN THE IGNITION SWITCH FROM RUN TO ACC

Most of the Affected Models were equipped with an ignition switch that required less than standard torque to turn the switch from “RUN” to “ACC.” In other vehicles, the ignition switch and key location near a driver’s knee makes them susceptible inadvertent rotation from “RUN” to “ACC.” It takes little imagination to realize that an ignition switch with a key in place could easily be knocked from RUN to ACC regardless of the required torque if it is mounted low on the steering column as shown in the photographs below.<sup>10</sup> Note how the key chain assembly (see red arrow) can result in key rotation due to interaction with the driver’s knee.

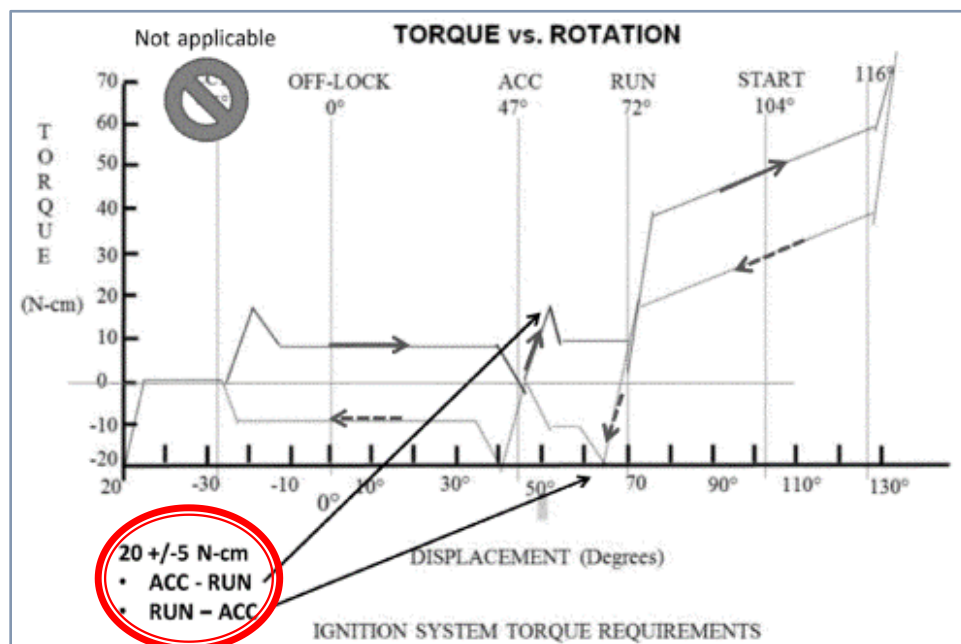


Stalls due to inadvertent turning off of a vehicle were and still are a known design condition as indicated by the ignition switch torque requirements that have almost certainly existed for decades.

<sup>10</sup> GM-MDL2543-002880411.

Adequate minimum torque resistance will not eliminate inadvertent movement of an ignition switch from RUN to ACC given the position of the key on the steering column shown above. GM documents, testing by BEAR, and research by others shows that reasonable switch torque resistance criteria was well evolved by the 1990s, both inside and outside GM.

Target minimum torque criteria for ignition switches were specified in known GM documents as early as 1997.<sup>11</sup> Later Cobalt documents clearly indicate the intended path of the Torque-Displacement curves and torque criterion of  $20 \pm 5$  N-cm to move the ignition key from ACC to RUN or RUN to ACC:<sup>12</sup>



Considering that stalls caused for any reason are undesirable and a known cause of accidents, measuring ignition key torque and comparing it to an already determined criteria should have been part of any competent design process to minimize risk and improve safety. A torque resistance criteria of  $20 \pm 5$  N-cm to move the ignition key from ACC to RUN or RUN to ACC is reasonable based on BEAR's torque measurement on a wide range of automobiles from various manufactures and ease-of-use studies in the open literature on activation forces and torques for appliances.<sup>13</sup> It is desirable that switches be sufficiently easy to rotate for the weak and elderly to be able to activate them, while at the same time resistive enough that they are not

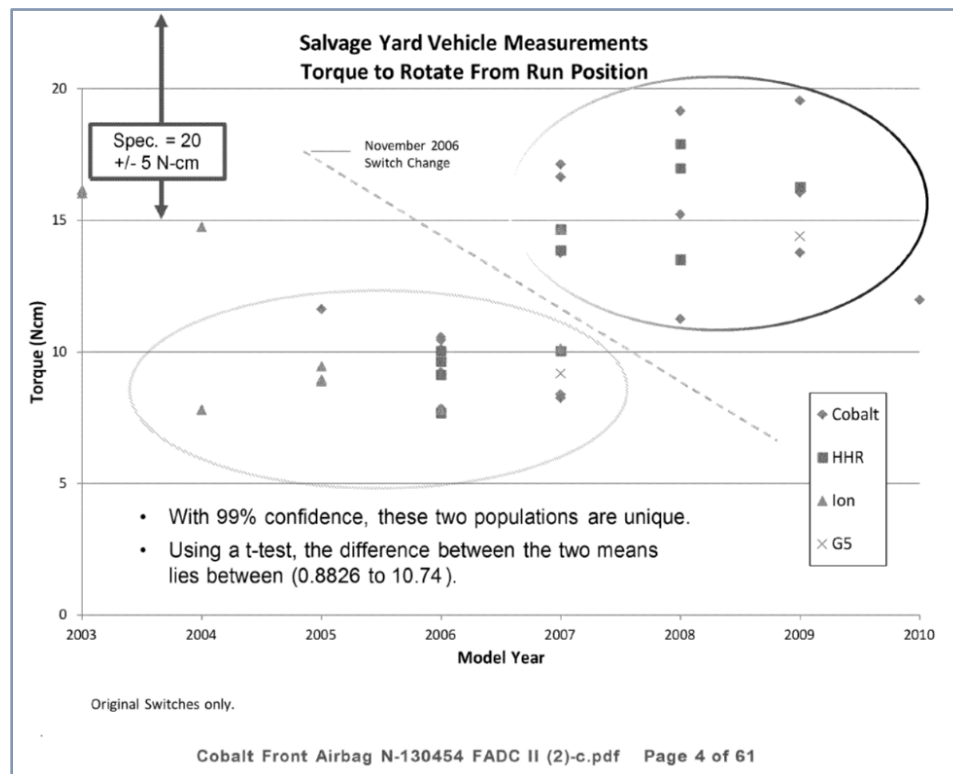
<sup>11</sup> GM-MDL2543-001081419.

<sup>12</sup> GM-MDL2543-002880413.

<sup>13</sup> Requirements needed in European household appliance performance standards to improve ease of use of appliances by older and disabled people, FINAL REPORT, ANEC R&T Project 2010, ANEC-ML-2010-0044, by Colette Nicolle (c.a.nicolle@lboro.ac.uk), Martin C. Maguire, and Laurence Clift, Loughborough Design School Loughborough University January 2011.

inadvertently turned off by adults or purposefully by children. The  $20 \pm 5$  N-cm criteria clearly evolved over time and well before the Affected Models were designed.

This, or similar criteria, should have been part of a simple FMEA checklist used before a prototype goes into production. It clearly was not, as indicated by investigations that occurred many years later. As shown in the graphic below, none of the related 2006 and older cars and only roughly half of the 2007 and newer cars met the specification.<sup>14</sup>



Testing of over 400 switches at BEAR's laboratory in Berkeley, California indicated the same problem. None of the 2006 and older cars and roughly half of the 2007 and newer cars met the torque resistance specification.

## AIRBAGS AND OTHER SAFETY FEATURES - SINGLE POINT OF FAILURE

The airbags and other safety features are turned off if the ignition switch is moved out of the RUN position, even if the vehicle is traveling at a high speed. The inadvertent movement of the ignition switch is a "single point of failure" for the airbags and other safety features (maintaining engine power, braking assist, and steering assist and stability systems).

<sup>14</sup> GM-MDL2543-002880398.

The Affected Models have two types of styles of airbag controllers, or SDM, in terms of how they are powered and maintained active: (1) powered directly from the battery, switching from active to inactive based on system logic and (2) power controlled through the ignition switch, switching from active to inactive based on the same power.

In the first type, powered directly from the battery, the logic could have easily been designed to keep the airbags active, as long as the vehicle is moving more than 5 mph, as suggested by GM's technical consultants at Virginia Tech Transportation Institute ("VTTI") in their final report.<sup>15</sup> Vehicle speed is one of the important variables monitored by the SDM and used to determine whether or not an airbag should deploy. Unfortunately, due to inadequate memory in these SDM's, the logic program could not be upgraded *in situ* to keep the SDM active based on vehicle speed.

In the second type of SDM, power is controlled through the ignition switch, and the active/inactive status is based on the same power. Power is only provided when the ignition switch is in the RUN position. In this case, a simple comparator circuit can be used to correct the defect.<sup>16</sup> Power is provided directly from the battery if the car is moving more than a desired vehicle speed. The author has built and tested such a circuit in both the Saturn Ion and Cadillac CTS. The cost for such a circuit in volume would be approximately \$2 US. If designed and built into the SDM from the beginning, the cost would be insignificant.

## OPPORTUNITIES TO "FIX" THE PROBLEMS

There were ongoing problems with the ignition switch in the Affected Models and the systems affected by it from its inception through production:

1. Resistive torque too low
2. Location susceptible to interaction with the driver's knee
3. Moving stalls, even in the Test Fleet
4. Non-deployment of airbags

---

15 Technical Assessment of Ignition Switch Test Methods, Procedures and Analysis Techniques, Final Report Delivered to General Motors by the Virginia Tech Transportation Institute, by: Thomas A. Dingus, Luke Neurouter, Kevin Kefauver, and Mindy Buchanan-King, August 30, 2014, p. 163. Exhibit 27 at: [http://www.motorsliquidationdocket.com/pdflib/14450\\_50026.pdf](http://www.motorsliquidationdocket.com/pdflib/14450_50026.pdf)

16 Comparator circuits are High School level analog electrical circuits described in texts as early as 1974: IC Op-Amp Cookbook, by W.G. Jung, SAMS, 1974.

Each of these problems should have been picked up in design and/or quickly solved after production began if proper risk assessments (e.g. FMEA) had been properly carried out from start to finish at GM. Had the low torque condition undergone a complete risk analysis, it would have been deemed unacceptable. Had the stalls in the test fleet undergone a comprehensive FMEA analysis, it would have been clear that they could lead to safety related unintended consequences. Had the non-deployment of airbags been analyzed correctly, with a full set of data that should have been available to the internal investigators, many of the accidents and fatalities could have been prevented.

It is difficult to understand how GM's engineering failed to respond to the issue of both moving vehicle stalls and non-deployment of its airbags in the face of overwhelming evidence over a period of more than a decade.

## PUTTING IT ALL TOGETHER

In summary, GM failed to follow the very methods it helped to develop for its suppliers, namely, assessing risk of safety critical systems in the design process, managing and documenting change, and following up on indications of systems failures and determining the consequences of those failures. GM failed to:

- 1) Consider that the ignition switch could be inadvertently moved to the ACC or OFF position shortly before or during a crash event or sequence;
- 2) Apply or use a logical and methodical risk evaluation of the airbag system during the design process;
- 3) Develop a safety culture where engineers would have insisted on documenting all the changes (e.g. ignition switch internal springs) and reviewing these documents when problems later occur;
- 4) Perform a complete (determining all consequences) logical and methodical risk evaluation of the ignition switch and airbag system when reports of stalling and airbag fails began to surface; and
- 5) Evaluate all makes and model cars that could have the same parts and problems until Model Year 2014.

GM's actions in regard to the design, testing, acceptance, and production of a defective ignition switch (torque resistance and location) and defective SDM (air bag controller) logic



violated its own standards and were below the standard of care in the automotive industry. All of my opinions in this report are to a reasonable degree of professional certainty.

## 1.0 INTRODUCTION

This report sets out GM's failure to design ignition switches that are safe from inadvertent rotation, either by inertial forces or interaction with the driver, while the vehicle is in motion. It analyzes the various defects identified by GM in its recall notices and its failure to address them in a timely fashion, or at all. It identifies a single point of failure common to all affected GM models. It summarizes GM's failure to follow accepted engineering practices in designing, testing, and remedying the defects inherent in its ignition switches.

Specifically, I was asked by Counsel for the Plaintiffs to address the following:

1. The function of a properly operating ignition switch in a passenger motor vehicle;
2. The reasons for and manifestations of the allegedly Defective Ignition Switches;
3. If there is commonality as to the manifestation of the Defect with all the Ignition Switches; and
4. The safety implications for individuals operating one of the Affected Models.

I address these questions below.

## 2.0 QUALIFICATIONS

My Curriculum Vitae and testimony list are attached to this report as Appendix A.

I am a mechanical engineer with a specialty in failure analysis and design of mechanical-electrical equipment and systems common to a wide variety of industries, including the evaluation of switches, interlocks, control systems, design, and risk assessment. I have been an instructor at U.C. Berkeley in the College of Engineering teaching the senior design course where I conducted lectures on the design of mechanical components, system controls, safety factors and risk in design, and guided students through a major design project which included the control, rating, and sizing of electric motors.

I received a Bachelor of Science in Mechanical Engineering from Michigan Technological University in 1980, and a Master of Science in Mechanical Engineering from The University of California, Berkeley in 1981. I worked for Chevron Corporation during and after

Berkeley Engineering And Research, Inc.

my time at school working toward my master's degree. In 1989 I returned to the University of California, Berkeley and started Berkeley Engineering And Research, Inc. ("BEAR"). I completed my Ph.D. in Mechanical Engineering from the University of California, Berkeley in 1993 concentrating in material behavior and design, with minors in structural analysis, and dynamics and controls (electronic controls).

At BEAR, I have investigated the failure of dozens of electrical control systems involving switches, software, and interlocks from the unintended acceleration of Toyota automobiles and other vehicles, automated brake presses, amusement park rides, welding machines and conveyors in automated factories, feedback control systems for pumps and heaters, and explosion and blowout prevention equipment.

I have also designed and implemented control systems for electric motors (pulse width modulation) used in the transport of powdered material and other fluids as well as electronic control systems for hydraulic test equipment in the laboratory.

I have almost 40 years of experience as an engineer. My experience includes the design and analysis of electronic and hydraulic controls. I am a Registered Professional Engineer in the states of California, Florida, Nevada, Texas and Utah, and a member of the American Society of Mechanical Engineers and American Society of Testing and Materials. I have qualified as an expert regarding mechanical and electrical engineering issues in United States' State and Federal Courts. I have testified regarding engineering issues similar to the ones involved in this case, including many ignition switch cases. In particular, in the U.S. litigation arising from the Ignition Switch Defect (*In re: General Motors LLC Ignition Switch Litigation*), I prepared an expert report and was admitted to testify in one of the "bellweather" trials. I am experienced and knowledgeable in the areas of mechanical-electrical design, control systems and risk assessment.

I am currently employed by and am a principal of Berkeley Engineering And Research, Inc., 808 Gilman St., Berkeley, California 94710. My hourly rate is \$450.00 per hour, \$650 per hour for depositions and trial testimony, plus reimbursement for materials for testing, travel, and other out-of-pocket expenses. In the present litigation, I have been asked to analyze the subject of ignition switches and control systems affecting the deployment of airbags and other safety systems and the efficacy of the recalls.



### 3.0 IGNITION DEFECTS IN GM VEHICLES: BACKGROUND

#### 3.1 FUNCTION OF A PROPERLY OPERATING IGNITION SWITCH IN A PASSENGER MOTOR VEHICLE

In a passenger vehicle, an ignition switch is a control that activates both the main electrical systems of the vehicle and its engine. During the material period, the ignition switch in the relevant GM models was implemented by way of an ignition key, which had to be physically inserted into the ignition cylinder and rotated to reach the desired position. Since that time, many passenger vehicle manufacturers have switched to keyless ignition switches.

In the vehicles described in this report, the ignition key had the following positions: OFF (the engine is turned off); ACC (the engine, power steering, power brakes and airbags are turned off but accessories, such as the radio, continue to operate); and RUN (the engine is on and all electrical systems are on).

#### 3.2 THE DEFECTIVE SWITCH RESULTS IN A LOSS OF CRITICAL SAFETY SYSTEMS

The ignition switch must not accidentally change positions when the vehicle is in motion. Doing so is critically dangerous for the vehicle and its occupants.

As early as 2002, GM had indications that its ignition switches were defective and prone to inadvertent rotation.<sup>17</sup> Yet, it failed to fully address this critical safety risk. Its failure to do so was contrary to sound engineering principles and had tragic consequences, resulting in loss of life and property damage.

The chronology of GM's failure to acknowledge and remedy the dangers posed by its flawed ignition switches is set out in the Valukas Report. I attach the Valukas Report as Schedule "A" to my report. Mr. Valukas, a former U.S. Attorney for the Northern District of Illinois, was retained by GM to determine "how and why it took so long for GM to recall the Cobalt," one of the vehicles affected by the defective ignition switch. He issued a Report, which addresses engineering failures in the Cobalt and a number of other Affected Models, and testified in Congress about his findings.<sup>18</sup> His Report lists a series of engineering failures concerning GM's ignition switch design, spanning many years. It states that "GM personnel's inability to address the ignition switch problem for over 11 years is a history of failures."<sup>19</sup>

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<sup>17</sup> Valukas p. 1.

<sup>18</sup> <https://www.latimes.com/business/autos/la-fi-hy-barra-congressional-testimony-20140617-story.html>.

<sup>19</sup> Valukas p. 2.

Following the release of the Valukas Report, GM terminated 15 employees, including the engineer responsible for the ignition switch design and subsequent changes. GM also disciplined five additional employees.<sup>20</sup>

The defective ignition switches at issue in this litigation were installed in GM automobiles with airbag control systems that would not deploy the vehicle's airbags if the ignition system is not in the RUN position, even if the vehicle was moving at a high speed.<sup>21</sup> This feature is common across all Affected Models. Upon inadvertent rotation of the ignition switch, in addition to non-deployment caused by vehicle power loss due to ignition switch rotation, other key safety systems such as power assist steering and brakes were lost as well. In many instances, the loss of these safety features caused or contributed to loss of vehicle control or airbag non-deployment, ultimately leading to injuries and/or fatalities.

A fundamental component of the airbag system is the SDM. The SDM is an onboard electronic module in the airbag system that determines whether airbags should deploy. In all Affected Models, if the ignition switch moved from RUN to ACC or OFF, the power to the SDM functionality was lost and airbags could not deploy.<sup>22</sup>

Thus, the defective ignition switches, combined with a system design that shuts off the SDM when the ignition moves out of the RUN position, constituted a single point of failure defect in all of the GM models at issue in this litigation.

The recalls, initiated only in February 2014,<sup>23</sup> did not fully address the ignition switch defects common across the Affected Models.

Below, I analyze each of GM's Canadian recalls in turn.

## 4.0 DELTA SWITCH

In developing a new small car product line in the 2000s, GM developed the "Delta Platform" vehicles, including Saturn Ion, Chevrolet Cobalt, Chevrolet HHR, and Pontiac G5. All shared the same defective ignition switch discussed below ("Delta ignition switch"). The Delta ignition switch was also used in "Kappa Platform vehicles" - Saturn Sky and Pontiac

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<sup>20</sup> <https://www.latimes.com/business/autos/la-fi-hy-barra-congressional-testimony-20140617-story.html>.

<sup>21</sup> Valukas p. 43.

<sup>22</sup> Valukas pgs. 27-28.

<sup>23</sup> Valukas p. 11.

Solstice.<sup>24</sup> Below, I discuss the Delta ignition switch's defective design and GM's failure to remedy it.

#### 4.1 THE DELTA IGNITION SWITCH WAS DEFECTIVE BECAUSE ITS TORQUE VALUES WERE TOO LOW

To prevent inadvertent rotation, manufacturers set a "torque curve", which specifies how much rotational force must be applied by the driver to rotate the key into and out of the OFF, ACC, RUN, and CRANK positions.

GM specified a torque curve for the Delta ignition switch as early as 1997:<sup>25</sup>

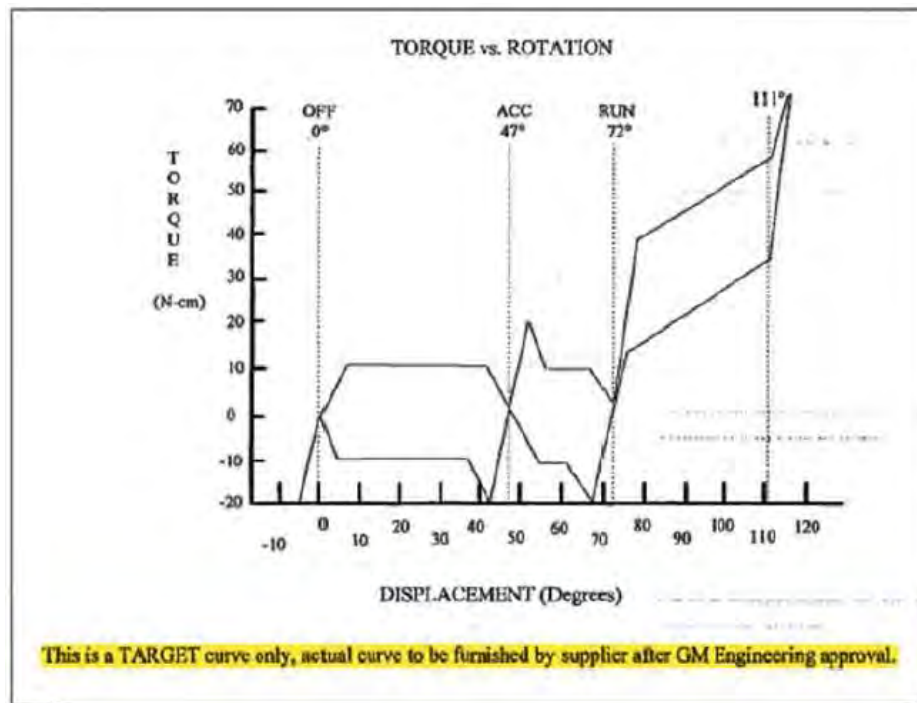


Figure 4-1. GM 1997 target Torque vs. Rotation technical specification.

This specification target required a 20 N-cm torque to move the switch from RUN to ACC. A variability of  $\pm 5$  N-cm required a minimum of 15 N-cm of torque for the RUN-ACC motion.<sup>26</sup> GM engineers designed and put into production an ignition switch with a resistive torque below GM's own specifications for being moved from the RUN position (to OFF or ACC).<sup>27</sup>

<sup>24</sup> Valukas p. 18.

<sup>25</sup> Valukas pgs. 35-36.

<sup>26</sup> Valukas p. 39.

<sup>27</sup> Valukas p. 39.

## 4.2 THE SWITCH IS DEFECTIVE BECAUSE OF ITS LOCATION ON THE STEERING COLUMN

The vehicles affected by this recall all used the Delta ignition switch. The ignition cylinder is placed in the lower section of the right side of the steering column of the vehicles using the Delta switch. This places the items hanging from an ignition key very close to or in contact with a driver's right leg/knee. During road and ground loading events, the driver's right leg/knee can contact these items or the key itself and apply a rotational force to the ignition switch.

This ignition switch placement makes the ignition switch torque requirement even more important because the mass of items attached to the ignition key apply rotational forces to the ignition switch. If these switch placements are sufficiently protected, they would not be susceptible to knee-key interactions that could rotate the switch out of the RUN position.

Other manufacturers (including Porsche and Mercedes Benz) have used dash mounted ignition switches/cylinders, and some (such as SAAB) have used center console mounted ignition switches/cylinders. These have ignition switch/cylinder locations that would not be subject to the same high force driver leg/knee interactions that the subject GM vehicles could experience.

## 5.0 MANUFACTURER RECALL NO. 13454 (TRANSPORT CANADA RECALL 2014038): THE DEFECTIVE DELTA IGNITION SWITCH AND LOSS OF VEHICLE SAFETY SYSTEMS

The Delta Ignition Switch Defect is the subject of Recall Numbers 13454 on February 10, 2014, and 14063 on February 26, 2014. The affected models: 2005-7 Chevrolet Cobalt, 2007 Pontiac G5, and 2005-6 Pontiac Pursuit for Recall 13454, and 2006-7 Chevrolet HHR, 2006-7 Pontiac Solstice, 2003-07 Saturn ION, and 2007 Saturn Sky for Recall 14063.<sup>28</sup>

### 5.1 GM SERVICE BULLETIN

GM issued a Service Bulletin on the issue specifically stating that the knee-key interaction was a potential cause of ignition switch turn-off:<sup>29</sup>

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<sup>28</sup> Transport Canada Recalls 2014038 and 2014101.

<sup>29</sup> GM Technical Service Bulletin 05-02-35-007, December 2005.

“There is a potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort. The concern is more likely to occur if the driver is short and has a large and /or heavy key chain. In these cases, this condition was documented and the driver's knee would contact the key chain while the vehicle was turning and the steering column was adjusted all the way down. This is more likely to happen to a person who is short, as they will have the seat positioned closer to the steering column.”

GM states that the inadvertent turn-off of the ignition is “*more likely*” with a large and/or heavy key chain; it does not suggest that it is impossible without.

## 5.2 KEY HEAD DESIGN

Two types of ignition key openings (“key head attachment geometries”) have been implemented for the subject GM vehicles – one has a single hole on the key centerline, the other is an elongated slot. The center-hole style of key has been recommended by GM as a method to reduce the likelihood of inadvertent ignition switch turning. This is because the slot opening in some keys allows for hanging weight on the key to apply a turning moment (weight force times roughly half the length of the slot) to the ignition switch, because the weight of the hanging key ring, keys, and fobs is not aligned with the center of the switch. This allows for mechanical loads arising from uneven road surface and other events to apply a torque (moment) to the switch.

However, a center-hole opening in the key does not prevent a key ring itself from binding or turning and contacting the key both at the center-hole and at the edge of the key simultaneously.<sup>30</sup> If the key ring does this, then the weight of the objects on the key ring will still apply a torque to the switch. Thus, the center-hole geometry does not completely eliminate the possibility of torque application to the switch from the weight of the objects on the key chain.

Further, for knee-key interactions, the style of hole is not nearly as significant as it is for hanging weight applications. Because the knee can directly interact with the key, the exact location of the hanging objects is less important. Also, a knee interacting with the objects hanging on a key ring has the potential for applying a torque to the ignition switch because the knee can apply forces to the hanging objects in an arbitrary fashion (it is not limited to applying the force to the center of mass of the hanging objects like inertial weight loading will do).

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<sup>30</sup> As part of their recall correction GM has been providing keys rings sized to prevent this phenomenon. Unfortunately, keys in used cars and replacement keys purchased by BEAR were often missing these rings. This issue is discussed further in the other recall Sections of this report below.

Both the National Highway Traffic Safety Administration (“NHTSA”) and GM have recorded at least some complaints of vehicle stalls with a single key used in the ignition. For example, nine NHTSA complaints of the Affected Models have been identified, and five of these specifically stated that there was nothing on the key ring except for the ignition key.<sup>31</sup> In each of these complaints, the vehicle experienced a stall with a single key.

### 5.3 GM’S FAILURE TO CHANGE THE PART NUMBER VIOLATED ENGINEERING AND INVENTORY STANDARDS

GM made a change to its Delta ignition switch design and construction in approximately 2006. This change altered the performance of the switch and included a new detent plunger and spring intended to generate greater torque values in the ignition switch.<sup>32</sup> The ignition switch uses a “detent plunger” to interact with a set of detents. The plunger is a spring-loaded, round tipped cylinder, and is forced against a circular plate that rotates relative to the plunger. The plate has detents (local depressions) that signify various positions of the switch, and the detent plunger is forced into those detents to hold the switch in position.

In an astonishing departure from accepted engineering principles, despite its redesign of the Delta ignition switch and its replacement with the “Catera” plunger, GM did not change the part number for the switch.

- This decision was contrary to GM’s practice of changing the number of a part when a change is made to the part’s fit, form, or function.<sup>33</sup>
- This decision violated generally accepted engineering standards and practices relied upon by automotive engineers.<sup>34</sup>

31 NHTSA Complaint ID Numbers 10577702, 10577847, 10586522, 10640439, 10705425.

32 A plunger, or a plunger cap, is a metal part attached to a spring that sits inside a small groove called a “detent,” located inside the ignition switch. The detent plunger and spring together hold the key in the desired position. They are meant to exert a certain amount of torque, which the driver needs to overcome if he or she wishes to rotate the ignition key. Valukas p. 26.

33 Valukas p. 143.

34 The American Society of Mechanical Engineers (ASME) issued ASME Y14.100-2004, Engineering Drawing Practices, that sets forth essential minimum requirements for engineering drawings and related documentation practices. ASME Y14.100-2004, § 6.8.1 governs “Change Requiring New Identification” and provides that “New PINs [part identification numbers] shall be assigned when a part or item is changed in such a manner that any of the following conditions occur: (a) When performance or durability is affected to such an extent that the previous versions must be discarded or modified for reasons of safety or malfunction.” GM redesigned the switch “for reasons of safety or malfunction.” Therefore, ASME Y14.100-2004 § 6.8.1 mandated that GM should have changed the part number.

- This decision not to change the part number also violated generally accepted inventory management standards and practices, which dictate that a modification that is necessary to meet product safety specifications requires a part number change.<sup>35</sup>

These violations significantly delayed GM's work to address the issue of ignition switch inadvertent movement.

#### 5.4 TORQUE TESTING OF SPV SWITCHES, DOCUMENTS, AND TESTIMONY DEMONSTRATE THAT THE CATERA SWITCHES WERE DEFECTIVE

In late 2005 and early 2006, former GM engineer Ray DeGiorgio discussed with the part manufacturer Delphi the possibility of putting a longer spring and plunger into the Delta ignition switch.<sup>36</sup> GM emphasized that the longer Catera spring was the fix to the defective ignition switch by telling the public, "the change effectively cured the problem of low rotational torque in the Ignition Switch and addressed the safety problem in future cars..."<sup>37</sup>

As explained in the March 2014 congressional memorandum on the ignition switch recalls: "According to Delphi officials, sample testing prior to this approval suggested a significant increase in torque performance but the values were still below GM's original specifications."<sup>38</sup>

Delphi representatives confirmed to Congress in 2014 that these test results "meant that the ignition switches currently in use in 2008-2011 vehicles do not meet GM performance specifications."<sup>39</sup>

GM has never publicly acknowledged that Catera switches that do not meet GM specifications were also installed in model year 2008-2011 vehicles. GM's recall notice for the 2008-2011 vehicles makes no mention of this fact. To the contrary, it states that the cars were recalled because inadequate switches may have been used to repair these cars, not because inadequate switches were installed during production.

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35 Frank Watts, ENGINEERING DOCUMENTATION CONTROL HANDBOOK at 82-83, 215; Phillip Cloud, DEVELOPING AND MANAGING ENGINEERING PROCEDURES at 50. An old and new part are interchangeable if they are placed into a bin and can be selected at random and used. The ignition switch part change created a part that could not be placed in a bin with the older design, selected at random, and then safely used. *Id.* GM demonstrated its view that the parts are not interchangeable when it initially issued the 14v047 (Transport Canada Manufacturer Recalls 13454 and 14063) recall based only on the older design, not the newer design.

36 Valukas p. 96.

37 Valukas p. 96.

38 U.S. House of Repres#2014101 2014/03/31.38 Transport Canada Recall #2014101 2014/03/31.

39 U.S. Congressional Hearing Transcript, Apr. 1, 2014, at pp. 42-46 ("But in a briefing last week, Delphi told [Congressional] committee staff that these new switches also did not meet GM specifications. They told us the force required to turn these switches was about two-thirds of what GM said it should be, and documents that were provided to the committee also confirmed that top GM officials were aware of the out-of-spec switches in 2008 to [sic] 2010 vehicles in December 2013.").



There is a significant safety risk from the Catera-spring ignition switches installed in 2007-2011 vehicles.

## 6.0 MANUFACTURER RECALL NO. 14092 (TRANSPORT CANADA RECALL 2014101): “SERVICE PART VEHICLES” WERE DEFECTIVE AND UNREASONABLY DANGEROUS WHETHER OR NOT THEY WERE INSTALLED WITH A SHORTER IGNITION SWITCH SPRING AND PLUNGER

Recall Numbers 13454 and 14063 initially included the following models and model year vehicles into which the Delta Ignition Switch was originally installed: 2005-07 Cobalt, 2007 G5, 2006-07 HHR, 2006-07 Solstice, 2003-07 Ion, and 2007 Sky.

GM later expanded the recall to include “Service Part Vehicles” (“SPVs”) with Recall No. 14092: 2008-10 Cobalt, 2008-11 HHR, 2008-10 G5, 2008-10 Solstice, and 2008-10 Sky.<sup>40</sup>

## 6.1 GM COULD NOT USE THE CATERA-SPRING SWITCHES INSTALLED IN SPVS AS REPLACEMENT PARTS IN CONNECTION WITH 2014 RECALL REPAIRS

That the Catera style switches originally installed in the SPVs are defective is also demonstrated by the changes GM and Delphi had to make to the Catera-spring switches in connection with the recall repairs in order to bring 100% of those switches within GM’s torque specification. GM could not use Catera-spring switches installed in model year 2008-2011 SPVs (PN 15886190) as recall replacement parts, implying that those switches were not acceptable and did not meet GM’s torque specification.

## 6.2 THE DEFECT IS NOT LIMITED TO THE LOW TORQUE ISSUE

The SPVs contained the same single point of failure defect that would disable critical safety features if the ignition switch rotated from RUN to ACC or OFF. The vehicle’s SDM is a single point of failure that disables critical safety features even if the car is still moving. This is a safety defect that has not been eliminated by the 2014 ignition switch recall. This single point of failure is particularly dangerous given the susceptibility of the switch to inadvertent rotation due to low torque, knee-key events, long and/or heavy key chains, and the placement of the switch.

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<sup>40</sup> Transport Canada Recall #2014101 2014/03/31.



Had GM performed a proper Failure Modes and Effects Analysis (“FMEA”), a standard engineering procedure,<sup>41</sup> the risk assessment would have revealed this single point of failure in SPV vehicles. And GM’s years-long delay in implementing solutions to a known defect also affected SPVs, as GM considered and refused to implement solutions to the inadvertent rotation and single point of failure defect that went beyond merely increasing the torque.<sup>42</sup>

For example, a supplemental electronic circuit could easily have been constructed to monitor vehicle speed and to provide power to the SDM during the time when the switch is in ACC or OFF and while the vehicle is still moving.

### 6.3 THE IGNITION SWITCH PLACEMENT IN SPVS IS DEFECTIVE

Throughout GM’s decade-long investigation of the defect, GM engineers attributed inadvertent rotation to a range of causes, including switch placement, the slotted head key design, weighty key chains, low torque, driver seat-positioning, and driver height.<sup>43</sup>

The first prong of the standard in safety design and risk management is to eliminate, or at least mitigate, the hazard through design change, so in early 2005 GM engineers proposed a change to the location of the ignition switch as a “sure solution” to the inadvertent rotation problems.<sup>44</sup>

DeGiorgio testified that he and other GM engineers attributed the inadvertent rotation complaints during this time frame to knee-key contact caused by the low placement of the ignition switch.<sup>45</sup> GM also issued a Service Bulletin in December 2005 warning of knee-to-key issues in the 2005-2006 Cobalt, 2006 HHR, 2006-2006 Solstice, and 2003-2006 ION.<sup>46</sup>

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41 I introduce the FMEA procedure above, and describe GM’s failure to perform proper FMEA in more detail in section 11, below.

42 Valukas Report at p. 67.

43 U.S. House of Representatives Committee on Energy and Commerce Memorandum, Mar. 30, 2014. Valukas Report at pgs. 8, 62-63.

44 Valukas at p. 67.

45 The Valukas Report noted that when DeGiorgio was asked about changes that could be made to the ignition switch to solve the problem back in November 2004, his draft responses noted that “the location of the Key/Cylinder (Low Mount) [is] a major road block,” and while he identified one option to resolve the issue which included “[i]ncreas[ing] detent plunger force for better key retention,” this was “an option DeGiorgio thought would only ‘slightly’ improve the problem.” Valukas at pgs. 62-63.

46 GM Technical Service Bulletin 05-02-35-007, December 2005.

The solutions that GM and other engineers considered, but failed to implement, over the years could have fixed a problem much broader than low torque, for example, the “sure solution” of changing the location of the ignition switch on the steering column to a higher mount.<sup>47</sup>

## 7.0 MANUFACTURER RECALL NO. 14299 (TRANSPORT CANADA RECALL 2014246): MORE DEFECTIVE IGNITION SWITCHES

Recall No. 14299 included the following models: (i) 2005-2009 Buick Allure; (ii) 2006-2011 Buick Lucerne; (iii) 2000-2005 Cadillac Deville; (iv) 2006-2011 Cadillac DTS; (v) 2006-2013 Chevrolet Impala; and (vi) 2006-2007 Chevrolet Monte Carlo.

The Canadian Manufacturer Recall 14299 is described as:

“On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. If this were to occur, engine power, power steering and power braking would be affected, increasing the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the “run” position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: For each key, dealers will install two key rings and modify the key ring opening shape. Note: Until the correction is performed, all items should be removed from the key ring.”<sup>48</sup>

## 7.1 GM HAD EARLY KNOWLEDGE OF THIS DEFECT

In 2005, GM employee Laura Andres reported a moving stall while driving a 2006 Impala.<sup>49</sup> It stalled when going over a bump / pothole at approximately 45 mph. Ms. Andres added via email that she considered this a “serious safety problem” and that she was “thinking big recall.”<sup>50</sup>

970 but in '05, a GM employee drove an '06 Chevy Impala home from  
971 work. When she hit a bump in the road, the ignition switch

<sup>47</sup> Valukas at p. 67.

<sup>48</sup> Transport Canada Recall Details for Manufacturer Recall #14299, Transport Canada Recall 2014246.

<sup>49</sup> GM emails show more unheeded warnings about ignition defects - Reuters June 17, 2014.

<sup>50</sup> US Congressional Hearing Preliminary-Transcript-OI-GM-Ignition-Switch-Recall-Investigation-2014-6-18, lines 970-981.

972 fell out of the run position and stalled the car. Let me  
 973 read you from her email, which is up on the screen, sent in  
 974 October of '05 after she took the vehicle for repair. “I  
 975 think this is a serious safety problem, especially if this  
 976 switch is on multiple programs. I am thinking big recall. I  
 977 was driving 45 miles per hour when I hit the pothole and the  
 978 car shut off, and I had a car driving behind me, swerving  
 979 around me. I don't like to imagine a customer driving with  
 980 their kids in the backseat on I-75 and hitting a pothole in  
 981 rush-hour traffic. I think you should seriously consider  
 982 changing this part to a switch with a stronger detent.”

Ms. Andres also commented: “I picked up the vehicle from repair. No repairs were done. . . . The technician said there is nothing they can do to repair it. He said it is just the design of the switch. He said other switches, like on the trucks, have a stronger detent and don't experience this.”<sup>51</sup>

Despite its knowledge of this critical safety risk, GM took no action to remedy the dangerous defect until the 2014 recall.

## 7.2 THE RECALL “REMEDY” IS INADEQUATE

The repair procedure for Recall No. 14299 involved modifying the key ring opening shape and adding two key rings.<sup>52</sup>

This “remedy” is inadequate because GM has not redesigned the switch, and the ignition key and switch remain prone to inadvertently moving from the “RUN” to the “ACC” position. Simply changing the key slot or taking other keys and fobs off of key rings is insufficient, and GM's “fix” does not adequately address the inherent dangers and safety threats posed by the defect in the design.

The ignition switches for all models recalled in Recall No. 14299 should have been replaced with switches meeting the torque specification. Further, the key insert and ring changes do not eliminate the potential for knee-to-key interaction.

Additionally, the use of specific key rings cannot be considered a satisfactory solution. There is no instruction given to drivers of these vehicles that key rings are critical to safe

<sup>51</sup> Laura Andres Email 2005-10-03.

<sup>52</sup> Transport Canada Recall Details for Manufacturer Recall #14299, Transport Canada Recall 2014246.

operation of the vehicle (other than an insert intended to be added to the owner's manual), and it should be anticipated by GM that users could and would change key rings to fit their lifestyles. In fact, BEAR purchased a used 2011 Chevrolet Impala that had already had the recall performed on it. When BEAR purchased that vehicle, the key provided had the recall insert, but the recall key rings were not supplied. Only a single, non-recall sized key ring was attached to the key, fob, and hang tag as shown in Figure 4-7 below. Additionally, the owner's manual insert was not provided when BEAR purchased the Impala. Furthermore, the manual insert does not specify the size of the key rings, and therefore an owner would not know if their key rings met the recall design even if they had the recall manual insert.



Figure 7-1. Key and Key Ring Provided with Used 2011 Chevrolet Impala Purchased by BEAR.

### 7.3 GM'S IN-COLUMN TESTING IS NOT VALID

GM has said that there is no defect because “the ignition system as a whole as installed in the vehicles’ steering columns performed approximately at the target specification.”<sup>53</sup> This is not a valid assertion.

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<sup>53</sup> July 2, 2014 ‘573 Letter.

First, GM’s minimum torque specification of 20 N-cm is a *switch* specification - not an installed switch/cylinder/column specification, and thus testing the ignition system as a whole cannot be used to meet this specification.

Second, road testing performed by GM on complete switch assemblies installed in vehicles demonstrated that, when a slotted key is carrying added weight, a jarring event can cause the ignition to unintentionally rotate out of the RUN position.<sup>54</sup>

Third, many customer complaints to NHTSA demonstrate that some vehicles that have had the recall “remedy” performed continue to have dangerous problems such as moving stalls.<sup>55</sup>

## 8.0 MANUFACTURER RECALL NO. 14172 / 14497B (TRANSPORT CANADA RECALL 2014273): EVEN MORE DEFECTIVE IGNITION SWITCHES

Recall No. 14172/14497B involved the following vehicles: (i) 2003-14 Cadillac CTS; and (ii) 2004-06 Cadillac SRX.<sup>56</sup>

The Transport Canada Recall states: “On certain vehicles, there is a risk that some drivers may bump the ignition key with their knee and unintentionally move the key from out of the "run" position. If this were to occur, engine power, power braking and power steering would be affected, which would unexpectedly increase steering and brake pedal effort, potentially increasing stopping distances and the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury. Correction: Dealers are to remove the key blade from the original flip key/transmitter assemblies provided with the vehicle, and provide two new keys and two key rings for every original key. Important note: Until the correction is performed, drivers should adjust their seat and steering column to allow clearance between their knee and the ignition key.”<sup>57</sup>

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54 July 2, 2014 ‘573 Letter.

55 See NHTSA ID Numbers 10618391, 10626067, 10626659, 10628704.

56 Manufacturer Recall Number 14172 / 14497B (Transport Canada Recall 2014273) from Transport Canada Website.

57 Manufacturer Recall Number 14172 / 14497B (Transport Canada Recall 2014273) from Transport Canada Website.

## 8.1 GM HAD EARLY KNOWLEDGE OF THE DEFECT

The evidence shows early GM knowledge of problems with the ignition switches in the vehicles affected by this recall.

The Cadillac CTS was first introduced as a 2003 model year vehicle with a Delphi ignition switch (P/N 12450257) commonly referred to as the “Catera” switch.<sup>58</sup> Part number 12450257 started production on the MY03 (“model year” 2003) CTS, the successor vehicle for the Catera in Cadillac’s line-up.

The primary difference between the Delta switch and the Catera switch was in the plunger design. The Catera was engineered and built with a supposedly stronger detent plunger - the same one that DeGiorgio secretly used to replace the Delta plunger in mid-2006.<sup>59</sup>

In 2006, the Catera switch was redesigned for the Cadillac SRX only (the MY07 CTS retained the old Catera switch design).<sup>60</sup>

Then for MY08, GM introduced the “Generation 2” Cadillac CTS, which contained an ignition switch assembly designed by Dalian Alps Electronics Company (GM P/N 92184907).<sup>61</sup>

In January 2010, Engineering Work Order (“EWO”) DYKMHB was issued to change the key ring opening on the Cadillac CTS key from a slot to a hole. The EWO states that the change was made to prevent accidental ignition shut off for customers with heavy key chains. Notably, in the so-called ‘573 Letter, a letter GM wrote to the NHTSA in response to the United States Code of Federal Regulations 49 CFR 573, regarding the details and history of the equivalent United States recall, GM claimed that this was not the purpose of the change and that the “language appears to have been inadvertently included from an earlier EWO relating to non-Cadillac models. The purpose of the key ring opening design change for the CTS was to reduce an observed nuisance of the key fob contacting the driver’s leg. The new key design was introduced in December 2010. This design was used on Cadillac CTS vehicles from December 2010 through 2014 MY.”<sup>62</sup>

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58 July 16, 2014 Rule 573 Letter.

59 Valukas at p. 98.

60 GM’s ‘573 chronology claims that the switch was re-designed to increase the torque: “In a letter to NHTSA dated April 11, 2014, Delphi informed NHTSA that Delphi’s records reflected that this change was made at GM’s request following some driver reports that they turned the vehicles off with their knees while driving ‘competitively.’” July 16, 2014 Rule 573 Letter.

61 July 16, 2014 Rule 573 Letter.

62 July 16, 2014 Rule 573 Letter.



However, GM's ultimate recall was to add two additional key rings and change the slot to a hole – the result would drop the key fob potentially closer to the driver's knee/leg, directly opposing GM's intention of reducing the possibility of the key fob contacting the leg.

GM was again made aware of a problem with the CTS switch in 2011 when “a GM employee assigned a 2012 MY Cadillac CTS vehicle, which employed a key designed with a hole rather than a slot, reported a potential safety issue through the GM Company Vehicle Evaluation Program (CVEP) reporting system. The employee reported that contact between the key fob and his knee had resulted in an unintentional switching off of the ignition. The issue was reviewed by the CTS Current Product Improvement Team (CPIT).”<sup>63</sup>

In October 2011, GM received reports that the 2012 CTS was susceptible to knee interaction with the key. And in April 2012, GM learned that another 2012 CTS experienced stalls. Both reports were made by GM employees.<sup>64</sup> The latter report was investigated by GM's Red X team, which noted that the occupant felt unsafe when he experienced a moving stall.<sup>65</sup>

GM was also aware of incidents and customer complaints dating as far back as 2003 relating to the ignition switches in the CTS and SRX.<sup>66</sup>

Additionally, the switches in this recall suffered from low torque values, i.e. was prone to inadvertent ignition switch rotation. Also, 3D scanning and photography done by BEAR has demonstrated that the Cadillac CTS is not more resistant to knee-to-key interactions than the Cobalt/Ion.<sup>67</sup>

## 8.2 THE RECALL “REMEDY” IS INADEQUATE

The supposed remedy of changing the key cover from a slot to a hole (for some vehicles) and adding a small, additional key ring set does not fix the low torque switches.

Unlike the initial wave of Ignition Switch Defect-recalled vehicles,<sup>68</sup> vehicles subject to later Ignition Switch Defect recalls, including Transport Canada Recall #2014284, did not

<sup>63</sup> July 16, 2014 Rule 573 Letter.

<sup>64</sup> July 16, 2014 Rule 573 Letter.

<sup>65</sup> July 16, 2014 Rule 573 Letter.

<sup>66</sup> *See, e.g.*, NHTSA ID Nos. 770030, 10004288, 10062993, 10082289, 10127580, 10137348, 10169594, 10188245, 10203516, 10203943, 10231507, 10245423, 10348743, 10455394, 10576468.

<sup>67</sup> Stevick Report in *McKnight v. GM*.

<sup>68</sup> Transport Canada Recall # 2014038/60, Feb 10/26, 2014. Transport Canada Recall # 2014101, Mar 31, 2014. Corresponding GM recalls 13454 and 14092.

receive a new, revalidated ignition switch as part of the recall “Correction,”<sup>69</sup> despite having nearly identical defect descriptions.<sup>70</sup>

Further, GM’s road testing indicated that Cadillac CTS vehicles with keys with a hole and a single key ring between key and fob were *still* potentially subject to inadvertent key rotation when the driver’s knee came into contact with the key,<sup>71</sup> further demonstrating the ineffectiveness of the purported recall “Correction” of replacing slotted key covers with covers containing holes (in addition to replacing key rings).

Additionally, the use of specific key rings cannot be considered a satisfactory solution. There was not adequate instruction given to drivers of these vehicles that key rings are critical to safe operation of the vehicle, and it should be anticipated by GM that users could and would change key rings to fit their lifestyles. The only instruction GM provided was an insert meant to be added to the Owner Manual, thus requiring that every driver of every recalled vehicle become intimately familiar with a single particular page in order to be aware of the significance of the key ring size or configuration. This would include drivers who were not present or completely unaware of what the recall fix was or how it was performed. It would also rely upon dealers performing the recall to not only provide the insert, but also to provide explicit instructions to the drivers that an insert was provided and that every future driver of that vehicle must be aware of those instructions. This is simply not possible in practice and GM never demonstrated that this could be done.

## 9.0 MANUFACTURER RECALL NO. 14294 (TRANSPORT CANADA RECALL 2014243): KNEE-TO-KEY CAMARO DEFECT

This recall involved model year 2010-14 Chevy Camaros.<sup>72</sup> The Canadian Recall states: “On certain vehicles, there is a risk that some drivers may bump the ignition key with their knee and unintentionally move the key from out of the “run” position. If this were to occur, engine power, power braking and power steering would be affected, which would unexpectedly increase steering and brake pedal effort, potentially increasing stopping distances and the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the “run” position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury.”<sup>73</sup>

69 Transport Canada Recalls #2014246 and #2014284. July 16, 2014 Rule 573 Letter, NHTSA Notification Campaign No. 14V-394. GM recalls 14299, 14172, 14497 and 14350.

70 Ibid.

71 July 16, 2014 Rule 573 Letter (Mar. 9, 2017 Thompson Dep. Ex. 1, Tab 5).

72 Transport Canada Recall #2014243, 2014/06/20

73 Transport Canada Recall #2014243, 2014/06/20.



## 9.1 GM WAS AWARE OF THE DEFECT

Between 2010 and 2014, NHTSA received numerous complaints of power failures in 2010-2014 Camaros. These complaints started as early as January 2010, months after GM emerged from bankruptcy. One complainant described an incident in which his model year 2010 Camaro lost all power while he was driving 55-65 mph down a mountain road in heavy traffic. The complainant was able to stop the vehicle by jamming it into a guardrail. He stated that he was lucky he was not killed. When he notified his dealership, however, they told him there was nothing wrong with the vehicle.<sup>74</sup>

Another complainant, in May 2010, described several instances in which his moving Camaro's power failed, including one instance in which he was driving on the highway at 70 mph.<sup>75</sup>

Between 2010 and 2014, NHTSA received numerous complaints reporting engine stalls during normal and regular Camaro operations.<sup>76</sup>

## 9.2 THE RECALL "REMEDY" IS INADEQUATE

The recall provided Camaro owners with new keys and key rings. Dealers were instructed to remove the key blade from the original flip key/RKE<sup>77</sup> transmitter assemblies provided with the vehicle, and to provide two new keys and two key rings per key.<sup>78</sup>

This change supposedly reduced the possibility for interaction between the driver's knee and the key. But GM's purported fix does not resolve the issue. The location of the switch - low on the steering column - is still a problem.

Second, the implemented solution effectively rotates the key 90 degrees. However, this may not be the optimal rotation for mitigating knee-to-key contact hazards.

GM's solution does not address the position of the key in the run position or the possibility of it being hit by the driver's knee and does nothing to address the basic ergonomics of the vehicle. The remedy also disregards torque.

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74 FACC ¶ 666.

75 NHTSA ID No. 10328659.

76 NHTSA ID Nos. 10328659, 10361456, 10450423, 10661553, 10523065, 10535407, 10477427, 10546543, 10548084, 10583760, 10585700, 10586895, 10630339, 10592329, 10592714.

77 RKE – Remote Keyless Entry.

78 Transport Canada Recall #2014243, 2014/06/20.

It also appears that GM did not conduct any testing to determine whether the remedy resolved the issue. It also does not appear that a full 3D analysis was done of the cab.

## 10.0 MANUFACTURER RECALL NO. 14350 (TRANSPORT CANADA RECALL 2014284): IGNITION SWITCHES IN DASH MOUNTED VEHICLES

This recall involved vehicles made by GM prior to its bankruptcy in June 2009. The recall comprises mid-sized sedans with dash-mounted ignition switches that were supplied by Stoneridge Pollak. The affected models include: 2000-05 Chevy Impala, 2000-05 Chevy Monte Carlo, 1997-05 Chevy Malibu, 1999-04 Olds Alero, 1998-02 Olds Intrigue, 1999-05 Pontiac Grand Am, and 2004-08 Pontiac Grand Prix.<sup>79</sup>

The Canadian Recall describes the defect as follows: “On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight or the vehicle goes off-road or is subjected to some other jarring event. If this were to occur, engine power, power steering and power braking would be affected, increasing the risk of a crash causing injury and/or damage to property. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may also result in the airbags not deploying in a subsequent collision, increasing the risk of injury.”<sup>80</sup>

The “remedy” under the recall was to eliminate the slot in the key head and add two key rings.

### 10.1 GM WAS AWARE OF THE DEFECT

This is yet another recall of vehicles that GM long knew were defective. NHTSA raised the issue with GM in May 2014 by forwarding Service Bulletin No. 052203<sup>81</sup> issued in 2003, for the 1999-2003 MY Malibu, Alero and Grand Am.

On May 22, 2003, GM sent a voice mail to all dealerships warning of intermittent shut offs while driving – a dealer was able to recreate a scenario where the vehicle shut off while driving over a bump at 35-40 mph.<sup>82</sup>

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79 Transport Canada Recall #2014284 2014/07/03.

80 Transport Canada Recall #2014284 2014/07/03.

81 NHTSA 10003658.

82 GM July 16, 2014 Letter to NHTSA 14v400 with Chronology.

On March 17, 2004, engineering work order (“EWO”) 317693 was initiated to increase the detent plunger force on the ignition switch on the Grand Prix in order to “maintain commonality” between the Grand Prix and the Malibu, Grand Am and the Alero. This was a production change, and none of the old defective switches were recalled and replaced. The old Grand Prix part number, P/N 10310896, was not changed to a new part number when the detent plunger force was changed; rather, P/N 10310896 remained the part number for the new ignition switch. Moreover, the service stock disposition was designated “use,” so it is possible that the old switch was used to service vehicles.<sup>83</sup>

GM investigated switches in its N platform vehicles in May 2014 when NHTSA forwarded a 2003 TSB for inadvertent turning in the 1999-2003 MY Malibu, Alero and Grand Am. Tests concluded that these vehicles were susceptible to inadvertent switch turning.<sup>84</sup>

## 10.2 THE RECALL “REMEDY” IS INADEQUATE

As with other recalls, the “remedy” of replacing the slotted key cover with one containing a hole and installing two key rings does not resolve the safety threat. The switches in US Recall No. 14350 (Transport Canada Recall 2014284) still suffer from low torque.

The ignition switches for all models recalled in US Recall No. 14350 (Transport Canada Recall 2014284) should have been replaced with switches meeting the torque specification. In order for the recall to be effective in mitigating the inadvertent rotation of the defective switches, it would require a 100% compliance rate of customers using only the key rings provided in the recall “fix.” If a customer were to use a different key ring, which is not only expected, but likely, then the vehicle will remain susceptible to inadvertent rotation of the switch under inertial loading.

Additionally, the dash placement of the ignition switch does not by itself eliminate knee to key interactions. If the switch is low enough, knee to key interactions can occur.

## 11.0 ALL OF THE GM DEFECTIVE IGNITION SWITCH VEHICLES SUFFER FROM A SINGLE POINT OF FAILURE DEFECT

Both the Delta and the Catera switches installed in Affected Models suffered from the same fundamental defect. They failed to provide sufficient torque to prevent accidental rotation

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<sup>83</sup> GM July 16, 2014 Letter to NHTSA 14v400 with Chronology.

<sup>84</sup> GM July 16, 2014 Letter to NHTSA 14v400 with Chronology.

of the ignition switch from RUN into ACC or OFF position. This defect is common to all Affected Models and, as I explain above, was not fully addressed by the recalls.

Furthermore, the ignition system logic and SDM system design employed by GM, which disabled critical safety features (maintaining engine power, braking assist, and steering assist and stability systems) if the ignition switch was not in the RUN position, was a defective single point of failure, particularly in light of the switches' susceptibility to inadvertent rotation. This single point of failure defect remains in GM vehicles today.

Engineers are supposed to avoid single points of failure in safety systems so that safety devices will be available in the event of a failure somewhere else in the system. "For System FMEAs, part of the task of addressing high severity problems is to understand and identify single-point failures. A single-point failure occurs where failure of a single component results in complete failure of the entire system. On a severity scale of 1 - 10, this would include severity 8 (complete loss of performance), as well as severity 9 and 10."<sup>85</sup> FMEA procedures are discussed in more detail below in Section 12.0.

GM repeatedly failed to fix this single safety defect despite the fact that there had been ongoing problems with the ignition switches from inception through production. The seriousness of the harm caused by the ignition switch inadvertently rotating from RUN to ACC far outweighed the burden or cost of GM's proposed solutions to the problem, including a switch with a higher torque detent, a single center-hole key rather than a slotted key, a higher and/or more remote key, and an SDM that would not disable critical safety features if the vehicle was moving or would otherwise allow the safety features of the vehicle to remain active even if the ignition is turned off. The cost of each of these "fixes" would have been insignificant if the underlying problems were addressed in the initial design phase.

In order for risk assessment in design to be successful, a company must be prevention-oriented. Unless prevention-oriented continual improvement drives the FMEA process, risk assessment and prevention will be conducted only to satisfy customers and/or market requirements,<sup>86</sup> resulting in high costs to a company's bottom line and society:

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<sup>85</sup> Effective FMEAs, by C.S. Carlson, John Wiley & Sons, 2012, p. 163.

<sup>86</sup> Stamatis, p. xxvi.

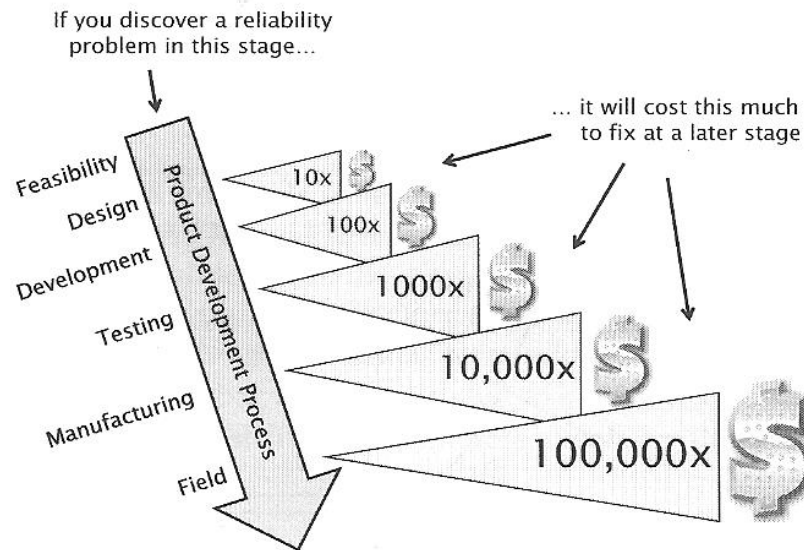


Figure 11-1. The Factors of 10 rule.<sup>87</sup>

## 12.0 GM FAILED TO FOLLOW PROPER FAILURE MODES AND EFFECTS ANALYSIS (FMEA) PROCEDURES

Engineers are required to assess risk. A proper risk assessment would have led GM engineers to logically work through the complete ignition system and consider what systems are turned off when the ignition switch moves out of RUN. Had GM conducted adequate failure analyses during and after the design stage, it would have quickly identified that an ignition switch moving out of RUN would disable critical safety systems such as airbags.

FMEA is an engineering risk assessment technique used in design and failure analysis to define, identify, and eliminate known and/or potential failures, problems and errors from the system/design before they reach the customer.<sup>88</sup> In other words, engineers conducting a proper risk assessment are supposed to review the design of a system and flush out known and potential failures so that the system can be designed to avoid the failures or minimize the likelihood that failures will occur. FMEA is a standard risk assessment method typically used in the automobile industry and, specifically, by GM, who helped author the Reference Manual on the subject. GM directs its engineers to use FMEA, although management is ultimately responsible to ensure that this is done. As the Reference Manual explains: “Management owns the FMEA process.

<sup>87</sup> Effective FMEAs, by C.S. Carlson, John Wiley & Sons, 2012.

<sup>88</sup> D. H. Stamatis, FAILURE MODE AND EFFECT ANALYSIS: FMEA FROM THEORY TO EXECUTION at 21(2003). There are numerous books on FMEA, such as Carl S. Carlson, EFFECTIVE FMEAS (2012).

Management has the ultimate responsibility of selecting and applying resources and ensuring an effective risk management process including timing. Management responsibility also includes providing direct support to the team through on-going reviews, eliminating roadblocks, and incorporating lessons learned.”<sup>89</sup>

For the purposes of FMEA, failure is viewed as a three-part event: cause, failure mode, and effect. The cause is always in terms of root cause; the failure mode is how the failure manifests itself to the customer; and the effect is the impact on the customer.<sup>90</sup> For each failure identified, an estimate is made of its occurrence, severity and detection. A risk priority number (RPN) is estimated or calculated by taking the product of Severity (S), Occurrence (O), and Detection (D), all of which are given a ranking from 1 to 10.<sup>91</sup> An evaluation is then made of the necessary action to be taken, based primarily on the RPN; if it is greater than roughly 125 and/or the Severity number (S) is 8 or greater, action (e.g. a design change) is typically recommended.<sup>92</sup> A product with a known defect, such as an ignition switch that is easily rotated and turns off safety systems, would have an RPN at or near 1000.<sup>93</sup> The emphasis, and engineering standard of care in performing a risk assessment, is to minimize the probability of the *cause* of failures.<sup>94</sup> The probability of failure *Effects* are: difficult to track, often unknown at the time of design, and can be highly variable with a low number of manufactured units.

It should be noted that it is the occurrence or likelihood of the *cause*, and not the *effect*, that is critical in performing an FMEA.<sup>95</sup> In the case of the GM ignition switches, the root cause is the low resistance torque from RUN to ACC and the positioning of the switch relative to the driver. The effect is the loss of engine power, accessories, and airbag systems. The likelihood of occurrence thus is the likelihood of the switch having a low torque or being in a location where driver knee interaction can occur – in most of these vehicles this likelihood is near 100%. Both GM and Ford FMEA handbooks also specifically refer to occurrence of causes as the evaluated value, not the occurrence of the effect.<sup>96</sup>

A system FMEA should have revealed the root cause of failure that eluded GM for over a decade.

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89 GM FMEA Reference Manual Sept. 23, 2015.

90 Kenneth W. Dailey, THE FMEA POCKET HANDBOOK at 8 (2004).

91 Stamatis, p. 320.

92 Engineering Design – A systematic Approach, 3<sup>rd</sup> Edition, by G. Pahl, W. Beitz, J. Feldhusen and K. H. Grote; edited and translated by K. Wallace and L. Blessing, Springer-Verlag, 2007, pg. 529.

93  $RPN = S \times O \times D$ , where  $S = 10$ ,  $O = 10$  and  $D = 10$ .

94 Effective FMEAs, by C.S. Carlson, John Wiley & Sons, 2012, p. 140: “Potential Misapplication of Occurrence Ranking. Some practitioners attempt to use the occurrence ranking to reflect the likelihood of the *effect*, instead of the likelihood of the *cause*.”

95 Effective FMEAs by C.S. Carlson, John Wiley and Sons, 2012, p. 140.

96 Potential Failure Mode and Effects Analysis (FMEA) Reference Manual, 4th Edition, 2008 p12

Another GM document emphasizes the importance of conducting system-wide risk assessments. GM engineers Padma Sundaram and Dave Hartfelder authored an article titled “Rigor in Automotive Safety Critical System Development” in which they discuss the interaction between a component FMEA and a system FMEA:<sup>97</sup>

System and Component DFMEA: The intent of System Design FMEA (DFMEA) is to identify and evaluate the potential single point failure modes in the design that are safety-critical. It is an inductive analysis. This process verifies that the identified critical failure modes can be mitigated by design, diagnostics, or other safety mechanisms. GM DFMEA methodology is consistent with the SAE J1739 format. The System DFMEA comprehends system elements including sensors, electronic, and mechanical hardware. *Results from the component DFMEA for the lowest level components are integrated with the system DFMEA results. Critical findings that can lead to the identified system hazards (as identified in the PHA) are traced to resolution and documented in the system DFMEA report.* [Emphasis added]

The paper closes with the admonition that the “system safety process should address both systematic and random failure issues . . . .”<sup>98</sup>

If GM would have followed industry guidelines and its own recommended procedure and conducted a complete safety system risk assessment (such as an FMEA) of the safety systems affected by an ignition switch being turned off, GM would have understood the consequences of the ignition switch low-torque defect very early on before the Cobalt and the Ion came onto the market. It was particularly important to do a system FMEA given that GM was on notice that, even before the switch was released into production, it was failing torque testing. Had GM done a proper FMEA analysis at any point in time - including in response to reports of accidents causing injuries and deaths - GM’s engineers would have quickly come to the conclusion that the faulty ignition switch was responsible for airbag non-deployments.

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97 Rigor in Automotive Safety Critical System Development, Sundaram and Hartfelder, 29th Conference International System Safety Society, 2011.

98 Rigor in Automotive Safety Critical System Development, Sundaram and Hartfelder, 29th Conference International System Safety Society, 2011.



## 13.0 CONCLUSIONS AND OPINIONS

GM engineers designed and put into production, in each of the Affected Models, ignition switches and safety systems interacting with these ignition switches that were and remain defective. These ignition systems and safety systems failed to meet GM's own design specifications and were not properly evaluated in the design process in regards to risk analysis based on methods such as FMEA that GM played a significant role in developing. The ignition switches and ignition switch systems in each of the listed six cited Canada recalls cited in the Statement of Claim<sup>99</sup> all include two common defects:

- (1) Torque can be easily applied to the key or accessories hanging on the key that would result in the ignition switch moving out of the RUN position while the vehicle is moving. The designs allowed inadvertent applied torques to be greater than the resisting torque in the ignition switches.
- (2) The airbags and other safety features are turned off if the ignition switch is moved out of the RUN position, even if the vehicle is traveling at a high speed. The inadvertent movement of the ignition switch is a “single point of failure” for the airbags and other safety devices.

Over the ensuing decade, GM failed to remedy these engineering failures. A report commissioned by GM's Board of Directors details a litany of engineering failures, deviations from accepted engineering practices, and outright deception.<sup>100</sup> As a result, the Affected Models<sup>101</sup> were prone to sudden and unexpected power loss while in motion.

All Affected Models employ ignition switch designs that fail to exert sufficient resistive torque to prevent inadvertent rotation and engine shutdown. At the same time, GM employed a sensing diagnostic module design that disabled critical safety features, including the air bags, if the ignition switch was not in the RUN position. It was particularly dangerous in light of the known susceptibility of GM ignition switches in the Affected Models to inadvertent rotation. The easily moved ignition switch resulted in numerous “moving stalls” on the highway as well as loss of power on rough terrain. In many instances this occurred moments before a crash.

The consequences of decisions made by GM personnel in the fall of 2002 and the failure to correct those decisions over the following decade lead to catastrophic results - an estimated

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99 See: Canada Recalls 2014038, 201401, 2014246, 2014273, 2014243, 2014284.

100 *Report to the Board of Directors of General Motors Company Regarding Ignition Switch Recalls* dated May 29, 2014, authored by Anton R. Valukas, the former United States Attorney for the Northern District of Illinois (the “Valukas Report”).

101 Unless otherwise specified, capitalized terms in this report are as defined in the Plaintiffs' Statement of Claim.



Berkeley Engineering And Research, Inc.

100 fatalities tied to defective ignition switches and faulty air bag control system logic. GM engineers designed and put into production an ignition switch with a resistive torque roughly half its own specifications for being moved from the RUN position (to OFF or ACC) and often located the ignition switch in a position, typically low on the steering column, such that it was easily struck by a driver's knee.

GM did not commence recalls related to ignition switches until February 2014.<sup>102</sup> However, as detailed in my report, the recalls failed to fully remedy the ignition switch movement defect, and a single point of failure defect affecting the safety systems remained in all Affected Models. To this day, the SDM employed in the Affected Models is designed to shut down critical safety systems in case of a moving stall – an impermissible safety failure. GM's action constituted a complete failure of standard risk assessment in design, a process GM has played a significant role in developing.

I reserve the right to amend or supplement this report as new and additional material becomes available to me, and after reviewing the opinions given in other expert reports. I also reserve the right to supplement this report as my opinions evolve in the process of developing materials and exhibits necessary to explain my opinions in preparation to testify at trial.

Dated: June 1, 2020

  
Glen Stevick, Ph.D., P.E.

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102 Valukas Report, p. 11.

**EXHIBIT "B"**

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA  
LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992***ACKNOWLEDGEMENT OF EXPERT'S DUTY**

1. My name is Glen Stevick. I live in the City of Berkeley, in the State of California of the United States of America.
2. I have been engaged by or on behalf of Rochon Genova LLP to provide evidence in relation to the above-named court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
  - (a) To provide opinion evidence that is fair, objective and non-partisan;
  - (b) To provide opinion evidence that is related only to matters that are within my area of expertise; and
  - (c) To provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date: 5-28-2020

  
GLEN STEVICK

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA  
LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

*Proceeding under the Class Proceedings Act, 1992*

**AFFIDAVIT OF EDWARD M. STOCKTON**

I, **EDWARD M. STOCKTON**, of the City of Tucson, in the State of Arizona of the United States of America, **MAKE OATH AND SAY:**

1. I have been retained by Plaintiffs' Counsel Rochon Genova LLP in the proposed class action under Court File Number CV-14-502023-00CP as an economics expert in connection with the plaintiff's motion for certification of the action.

2. I am the Vice President and Director of Economics Services of The Fontana Group, Inc. The Fontana Group provides economic consulting services and expert testimony regarding the retail motor vehicle industry and other industries throughout the United States and Canada and other countries. I have a Bachelor's degree in economics from Western Michigan University and

a Master's degree from the Department of Agricultural and Resource Economics at the University of Arizona.

3. Attached as **Exhibit "A"** is a true copy of my Affidavit containing my expert opinion, which I believe to be true.

4. I understand the duties of an expert witness pursuant to Rule 4.1 of the Ontario *Rules of Civil Procedure* and provide as **Exhibit "B"** the signed Acknowledgement of Expert's Duty Form.

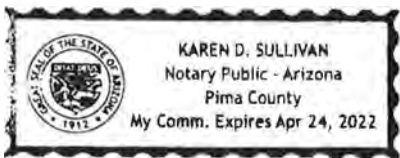
SWORN before me at the City of )  
Tucson, in the State of Arizona of the )  
United States of America, this 16th day )  
of June, 2020. )

*[Handwritten Signature]*

\_\_\_\_\_  
A Commissioner, etc. )

*[Handwritten Signature: Edward M. Stockton]*

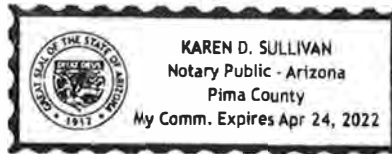
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EDWARD M. STOCKTON



This is Exhibit "A" referred to in the Affidavit of Edward M. Stockton sworn before me this 16th day of June, 2020.



*A Notary Public, etc.*



Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACY GREEN AND WENDY  
SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC,  
GENERAL MOTORS CORPORATION, GENERAL MOTORS  
COMPANY, and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF EDWARD M. STOCKTON,  
M.S.**

## INTRODUCTION

1. My name is Edward M. Stockton. I am the Vice President and Director of Economics Services of The Fontana Group, Inc. The Fontana Group provides economic consulting services and expert testimony regarding the retail motor vehicle industry and other industries throughout the United States and Canada and other countries.
2. Dr. Ernest H. Manuel, Jr. is the Chairman of the Board, and formerly President, of The Fontana Group, Inc.
3. Dr. Manuel is now retired except for finishing up his work on a small number of legal cases such as this one.
4. Dr. Manuel and I collaborated on the development and drafting of this Affidavit. However, I will be responsible to testify to the contents of the document, if required.
5. This affidavit concerns the economic damages incurred by a Class consisting of all current and former owners and lessees of certain General Motors (“GM”) vehicles in Canada. The particular vehicles were manufactured by GM and sold with ignition switches that were prone to failure. Under certain conditions, the ignition switch could unexpectedly move out of the “run” position, resulting in a loss of electrical power, engine stoppage, and non-deployment of air bags during a crash.<sup>1</sup>
6. GM personnel knew of problems with the ignition switches as early as 2002. Yet, GM did not publicly disclose the defect or issue a recall to replace the defective parts until early 2014.<sup>2</sup>
7. Aside from personal injury claims, Plaintiffs allege that Class Members suffered economic losses as a result of GM’s actions. The losses claimed include: overpaying for vehicles that were later disclosed to be defective; diminution in the value of the vehicles once the defect was disclosed; and the time and expense of taking the vehicles to GM dealerships for the recall repair.
8. Counsel for the Plaintiffs in this case retained The Fontana Group, Inc. to develop a method that could be used to evaluate some or all of the economic losses, excluding personal injury losses, of Class Members. This affidavit describes the method.
9. My curriculum vitae is attached as **Tab 1** to this report. I have a Bachelor’s degree in economics from Western Michigan University and a Master’s degree from the Department of Agricultural and Resource Economics at the University of Arizona. The emphasis of the Master’s program was applied econometrics. I began my

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<sup>1</sup> <http://www.gmignitionupdate.com/product/public/us/en/GMIgnitionUpdate/overview.html>

<sup>2</sup> Anton R. Valukas, *Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls*, Jenner & Block, May 29, 2014.



- employment at Fontana in the fall of 1998. My first position was as an analyst. Subsequent positions included senior analyst, senior financial analyst, case manager, Director of Economics Services, and Vice President-Economics Services.
10. My experience in the retail automotive industry encompasses studies, including some now in progress, of hundreds of new motor vehicle markets for vehicles of one or more of the following line makes: Acura, Audi, Bentley, Buell, BMW, Buick, Cadillac, Chevrolet, Chrysler, Dodge, Eagle, Freightliner, Ford, AHMC, Harley-Davidson, Honda, Hyundai, Infiniti, International Truck, Isuzu, Jaguar, Jeep, Kawasaki, Kia, Lexus, Lincoln-Mercury, Lotus, Mack, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Oldsmobile, Peterbilt, Plymouth, Pontiac, Porsche, Saab, Saleen, Saturn, Sprinter, Sterling, Subaru, Suzuki, Toyota, Volkswagen, and Volvo. These studies have been performed both on a consulting basis and in connection with litigation.
  11. These studies of the retail motor vehicle industry have concerned the addition, location, relocation or termination of dealerships, the valuation of dealerships, product line (make and model) discontinuation, the valuation of product lines within franchised brands, the non-approval of dealership buy-sell agreements, manufacturers' systems for allocating new vehicles to dealerships, customer satisfaction measurement, economic damages, retail credit analysis, and other topics. These studies have been performed throughout the United States, in Canada, and several other countries.
  12. Additionally, I, Dr. Manuel, and our colleagues have valued and developed models for valuing, literally millions of used vehicles. This includes estimating the effect on resale prices from product defects.
  13. I have testified before state and federal courts, the Court of Federal Claims, the Texas House of Representatives, state-level regulatory and administrative tribunals, and several alternative dispute resolution entities. My opinions, through sworn affidavits and declarations, have appeared before the Ontario Superior Court of Justice on multiple occasions.
  14. My professional experience also includes consultations on major consumer class actions within and outside the retail automotive industry. These matters include serving as the expert for six classes of consumers and the class of franchise dealers in the Volkswagen Diesel Emissions cases in the United States and Canada.<sup>3</sup> In the

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<sup>3</sup> *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC). *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Case No. 3:15-md-02672-CRB (N.D. Cal.), Dkt. 2101. *Option Consommateurs et Francois Grondin c. Volkswagen Group Canada Inc et al.*, Province De Québec District De Montréal Cour Supérieure No: 500-06-000761-151. *Matthew Robert Quenneville, et al. v. Volkswagen Group Canada, Inc., et al.*, Ontario Superior Court of Justice Court File No.: CV-15-537029-00CP. *Judith Anne Beckett v. Porsche Cars Canada Ltd., et al.*, Ontario Superior Court of Justice Court File No.: CV-15-543402-00CP.

- consumer matters, I studied economic losses suffered by consumers in connection with the allegedly unlawful sale and marketing of TDI vehicles. In the dealer matter, I modeled damages to dealers from the stop-sale and cancellation of the TDI line and buy-back of TDI vehicles in support of Volkswagen's settlement of its liability in that matter. I currently serve as the expert for the class of consumers who potentially suffered credit injury in connection with the Wells Fargo unauthorized accounts matter.<sup>4</sup> In that case, I developed, along with a colleague, a model to estimate increased borrowing costs experienced by consumers as a result of Wells Fargo's allegedly unauthorized account activity. The court approved this model and my administration of the model in the settlement of consumer claims. Several courts in the United States and Canada have cited to my analysis in approving settlements or settlement methods in these and other matters. Many judicial bodies have cited my opinions and analysis in connection with various administrative and regulatory disputes and other matters.<sup>5</sup>
15. I have been an invited speaker before groups of motor vehicle dealers, CPAs, Chief Financial Officers of dealer groups, attorneys, and other automotive professionals. A statistical study that I conducted on topics within the transportation industry was submitted to both houses of the United States Congress on behalf of a union that represents railroad track inspectors. I have been accepted as an expert in state and federal courts, administrative courts, a county court, and binding arbitrations. Areas of accepted expertise include economics, dealer network analysis, statistics, econometrics, dealership operations, dealership finance, analysis of automotive markets, and general knowledge of the retail automotive industry. I have provided deposition, cross-examination and hearing testimony on approximately 70 occasions.
  16. My clients include but are not limited to dealerships (automotive and non-automotive), dealer groups, an automobile manufacturer, a labor union, law firms, manufacturers in other industries, individuals, consumers, trade associations, at least two state attorneys general, and a variety of professional organizations.
  17. Dr. Manuel's curriculum vitae is attached as **Tab 2** to this report. He received a Bachelor of Science degree in Electrical Engineering from Stanford University in 1968. He received Master's and Doctoral degrees in Engineering-Economic Systems from Stanford University in 1970 and 1984, respectively. His doctoral training emphasized economics, applied mathematics and econometrics, which is the application of statistics to economic data.

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<sup>4</sup> *Shahriar Jabbari and Kaylee Heffelfinger, on Behalf of Themselves and All Others Similarly Situated v. Wells Fargo & Company and Wells Fargo Bank, N.A.*, Case No. 15-cv-02159-vc p. 7.

<sup>5</sup> *Jeff Looper et al. v. FCA US LLC, f/k/a Chrysler Group LLC, et al.*, Case No. 5:14-cv-00700-VAP-DTB. *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC). *Rebecca Romeo, Joe Romeo, Diane Béland, and Elyse Choinière v. Ford Motor Company and Ford Motor Company of Canada, Limited*, Ontario Superior Court of Justice Court File No.: CV-15-539855-00-CP.

18. From 1975 through 2012, he was employed by Mathtech, Inc., (the parent company of The Fontana Group, Inc.) which has its offices in the states of Virginia and New Jersey. Mathtech is now primarily a software consulting and engineering firm with clients in federal and state government and private industry. Mathtech acquired The Fontana Group, Inc. in 1994, and he became President of Fontana at that time.
19. Dr. Manuel has performed approximately 275 studies concerning various aspects of the automobile industry. These studies have concerned retail dealer network changes,<sup>6</sup> new and used vehicle sales, manufacturers' systems for allocating new vehicles to dealerships,<sup>7</sup> manufacturers' incentive programs,<sup>8</sup> retail automobile credit decision-making by lenders, motor vehicle parts wholesaling and retailing, retail automobile advertising, customer satisfaction measurement,<sup>9</sup> defamation cases, economic damages cases, factory warranty reimbursement policies, special discount programs that automobile manufacturers offer to fleet and retail buyers of new vehicles, right of first refusal provisions in motor vehicle franchise agreements, public ownership of dealerships, the impact of high insurance rates on retail automobile sales and other topics.
20. Dr. Manuel has testified as an expert regarding the automobile industry approximately 25 times in federal district courts and state courts throughout the US. He has also testified as an expert more than 50 times in administrative proceedings or arbitrations regarding the motor vehicle industry.
21. Dr. Manuel has previously studied the Toronto retail automobile market concerning the retail dealer networks for the Ford, Mercury, and Lincoln brands of automobiles.
22. In 2013, Dr. Manuel undertook a study of economic losses among a class of Canadian buyers of Toyota and Lexus vehicles allegedly subject to unintended acceleration.

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<sup>6</sup> "Retail dealer network changes" refers to the addition, relocation, termination, or replacement of retail motor vehicle dealers within a market area or group of market areas.

<sup>7</sup> An "allocation system" is the set of procedures that a motor vehicle manufacturer or distributor uses to decide how many vehicles each of its dealers will receive when the number of vehicles available for distribution is less than number of vehicles that dealers have ordered.

<sup>8</sup> Incentive programs seek to encourage additional new or used retail automobile sales, improved customer handling, facility improvements and other actions. Customer-incentive programs may include the offer of cash rebates, reduced interest rate financing, or subsidized lease payments for consumer automobile purchases. Dealer-incentive programs may include cash payments to dealers, increased gross profit margins on new vehicle purchases, additional new vehicle allocations, or other rewards.

<sup>9</sup> Most motor vehicle manufacturers and distributors conduct mail or telephone surveys of a dealership's customers following a new vehicle purchase or a warranty repair visit by a customer. The surveys seek to determine how satisfied the customer was with the purchase or service experience based on answers to various questions.

23. Counsel for plaintiffs in the US have retained Dr. Manuel for a class action similar to this one regarding GM vehicles with defective ignition switches.

### SOURCES OF INFORMATION REVIEWED

24. During the course of this engagement, we reviewed the following documents:
- a. Fresh as Amended Statement of Claim in this proceeding.
  - b. Proposed Second Fresh as Amended Statement of Claim in this proceeding (“**Proposed Claim**”).
  - c. Ontario *Class Proceedings Act, 1992* (“CPA”).
  - d. *Ramdath v. George Brown College*, 2014 ONSC 3066.
  - e. *Ramdath v. George Brown College of Applied Arts and Technology*, 2015 ONCA 921.
  - f. Anton R. Valukas, *Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls*, Jenner & Block, May 29, 2014.
  - g. GMignitionupdate.com
  - h. GM Annual Report, 2015.
  - i. GM 10-K Report, 2016-04-21.
  - j. GM Compensation Fund Final Protocol.
  - k. Various news articles regarding final report of GM compensation fund, 12/10/15.
  - l. W. Kip Viscusi, “Pricing Lives for Government and Corporate Risk Decisions,” Society for Benefit-Cost Analysis, March 19-20, 2015.
  - m. Tabulation of news articles in the US regarding GM ignition recall.
  - n. True Car sample transaction price distribution via Consumer Reports online.
  - o. Ward’s Automotive Yearbook, 2009.

### ASSUMED FACTS

25. This litigation arose from a number of high-profile recalls, beginning in or around February 2014, of vehicles manufactured and/or distributed by the Defendants (“Class Vehicles” or “Subject Vehicles”). A list of Class Vehicles models can be found at **Tab 3** to this affidavit.
26. According to the recall notices, the ignition switch on recalled vehicles can move from the “run” position to the “accessory” or “off” position while a vehicle is in motion resulting in a loss of electrical power, the turning off of the engine, and the disabling of the airbags (the “**Ignition Switch Defect**”). This defect is dangerous and has caused serious and life-threatening injuries, and, in some cases, death.

27. The Defendants have admitted, in various public statements, that the Ignition Switch Defect has directly caused loss of life and personal injury. They have also admitted that they knew of the Ignition Switch Defect as early as 2005 but failed to recall the Class Vehicles prior to February 2014. Further, in May 2014, the Defendants' external counsel, Anton R. Valukas of the law firm Jenner & Block, released his "Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls" (the "Valukas Report"). According to the Valukas Report, from the time of the inception of the defective ignition switches (in the fall of 2002) to approximately 2006, various engineering groups and committees considered ways to resolve the defects in the ignition switch, but none actually did so. Further, the defective ignition switches were placed into a variety of vehicles, but the Defendants failed to recall any of those vehicles until 2014. Finally, I understand that Dr. Glen Stevick, an engineering expert whose opinion will be tendered in this litigation, has provided an opinion that the recalls failed to entirely address the safety risk posed by the Ignition Switch Defect such that the Class Vehicles remained dangerous to operate even after the recalls.
28. The Plaintiffs' claims arise from fatalities and injuries, as well as property damage and economic loss, related to the Ignition Switch Defect. With regard to economic loss, the Plaintiffs claim that their vehicles suffered a diminution in value as a result of the recalls and the publicity surrounding them, in addition to the time and expense involved in bringing their vehicles to GM dealerships to implement the repairs pursuant to the recall. The Plaintiffs also claim that they overpaid for their vehicles due to the Defendants' misrepresentations regarding the vehicles' safety.
29. The Proposed Claim alleges that the Defendants owed various duties of care to the Plaintiffs and other Class Members, and that the Defendants breached those duties in various ways which resulted in injury to the Plaintiffs and to other Class Members. The Proposed Claim alleges that the Defendants were negligent in that they had a duty to ensure that the Class Vehicles were safe for use; once they became aware of the Ignition Switch Defect, the Defendants had a duty to warn the Class Members of the risks associated with the use of the Class Vehicles and should have recalled and repaired the Class Vehicles as quickly as possible; the Defendants breached the standard of care, causing damage to the Class Members.

## **ELEMENTS OF DAMAGES CONSIDERED**

### **Definitions of Economic Loss**

30. Plaintiffs allege that if GM had advised buyers of the Ignition Switch Defect, buyers would have paid less for their GM vehicles or not purchased the vehicles at all. In that case, the economic loss for a particular buyer is equal to the price that the buyer actually paid, minus the price that the buyer would have paid had

- he or she known of the defects. As a shorthand, this type of economic loss among Class Members will be referred to as “overpayment.” All Class Members experienced “overpayment” loss.
31. As described below, in my opinion, the cost of repair presents an appropriate surrogate measure of the “overpayment” loss suffered by the Class Members in the present case.
  32. Class Members who owned their vehicles at the time GM disclosed the defect also suffered a different type of loss – a reduction in the market value of their vehicles (i.e., excess price depreciation). The reduction in the market value of the vehicles will be referred to in shorthand as “diminution in value.” Only Class Members who owned their cars at the time of the disclosure of the defect experienced this type of economic loss. Those who bought and sold their vehicles prior to disclosure experienced overpayment loss but not “diminution in value” loss. As described below, the “diminution in value”, although ascertainable, is not the most appropriate measure of damages in the present case.
  33. Many Class Members who owned their vehicles at the time GM disclosed the defect experienced a third type of economic loss. In particular, those who complied with the recall and took their vehicles to a GM dealership for repair also experienced loss of income (or loss of free time), inconvenience, and associated costs arising from the repair process. GM documents state that the repair time is approximately 90 minutes and that customers may need to leave their vehicle at the dealership even longer than that because of scheduling requirements.<sup>10</sup> Thus, Class Members expended time and incurred expense making an appointment, driving to and from the dealership to drop-off and pick-up their vehicle, and, in some cases, to wait for the vehicle to be repaired.

### **Measuring Overpayment for Class Vehicles**

34. The following subsection discusses the “overpayment damages” suffered by the Plaintiffs.
35. In order to measure overpayment damages, we need to consider the vehicle purchase process.
  - a. Consumers may consider a wide range of vehicle attributes in their vehicle buying decisions, such as initial purchase price, performance, safety, styling, operating costs, warranty coverage, etc.
  - b. Consumers may engage in different degrees of search behavior for information on vehicle attributes. This may range from no prior

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<sup>10</sup> <http://www.gmignitionupdate.com/product/public/us/en/GMIgnitionUpdate/faq.html>

investigation to extensive use of published and online information sources, informal sources, and dealership visits and test drives.

- c. Different consumers may have different preferences for each vehicle attribute.
- d. Different search behaviors, different preferences for vehicle attributes, and different negotiating skills result in a distribution of selling prices paid for the same vehicle (see True Car price distribution figure **Tab 4**).
- e. The average (mean) of the price distribution reflects the average market value of the vehicle *as represented*.

36. Now consider, hypothetically, what would have happened had consumers been aware of the ignition switch defect at the time of purchase. In that situation:

- a. The distribution of selling prices would have shifted left because consumers would have been willing to pay less for a car with a safety defect than a comparable vehicle without the defect. In addition, because some consumers may have chosen not to buy at all, there would likely have been fewer transactions so that the area under the distribution would have been smaller. (**Tab 5**)
- b. The mean of the hypothetical smaller, left-shifted distribution would reflect the average market value of the vehicle *as received*.
- c. We can compare the mean of the first distribution with the mean of the left-shifted distribution. The difference in the means of the two distributions is an estimate of the average overpayment by Class Members for a given class vehicle. Therefore, it is an estimate of the average overpayment damages for Class Members for that vehicle. This difference in average prices is sometimes referred to as the “benefit-of-the-bargain damages.”
- d. Some Class Members may state that they did not overpay for their vehicles and that they got what they expected. That possibility is reflected in the wider shape of the left-shifted distribution which overlaps with the original distribution. Thus, the possibility that some Class Members may claim to be satisfied with their vehicles is also reflected in the difference of the means of the two distributions.
- e. The average market value of the vehicle *as received* at the time of sale is not observable in the marketplace.



- f. One estimate of the value *as received* could be developed by applying the percentage value diminution observed after the defect was disclosed to the average vehicle selling price at the time of sale. One estimate of the value *as received* at the time of sale is given by:<sup>11</sup>

$$S' = S * (P' / P).$$

In that case, after a little algebra, overpayment damages would be

$$\text{given by: } S - S' = S * (P - P') / P.$$

This estimate is based on the assumption that the price the buyer would have paid had they known of the defect is reduced by the same percentage reduction that later occurred in the vehicle's selling price after the defect was disclosed.

- g. In order to implement this approach, we need to determine P and P', i.e., to estimate the diminution in value of a vehicle once the defect was announced, for each subject vehicle model.
- h. It is possible to specify statistical models that estimate the diminishment in value that occurred following the release of public information about the defect. I and my colleagues have estimated regression models for similar purposes on many occasions. However, given the age of the vehicles at the time of public consumption of information about the defect, the relatively small pools of reported Canadian auction sales<sup>12</sup> and other

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<sup>11</sup> In this equation, the symbols are as follows:

S = the price the buyer would pay for the car when the defect is unknown

S' = the price the buyer would have paid for the car if the defect had been known

P = the price the buyer expects to receive (or would receive) upon selling the car if the defect were unknown

P' = the price the buyer actually receives for selling the car once the defect is known.

<sup>12</sup> Comprehensive data on used vehicle prices in Canada are available from two types of sources: used vehicle auction transactions and published vehicle price guides. An example of the latter is the publication entitled *Canadian Black Book* ("CBB") which provides prices for new and used vehicles for sale in Canada. Prior experience in the Toyota unintended acceleration litigation in Canada suggests the number of auction transactions in Canada may be too small to enable estimation of diminished values using regression analysis. The problem may be particularly acute in this instance because so many of the Class Vehicles in the GM litigation are quite old and therefore may appear less frequently at auction than newer vehicles. Use of published used car price guides has a



transactions in some cases, and the presence of other defects in large numbers of competing vehicles (e.g., the Takata Airbag recall beginning in 2014), the development of regression estimates to measure diminished value is not my preferred proposed method in this matter.

- i. Below, I propose an alternative methodology to measure overpayment that does not depend on the diminution in value estimates.

### **Using Cost of Repair as a Surrogate for Overpayment**

37. The goal of benefit-of-the-bargain damages is to put plaintiffs in the positions they would have been at the time of purchase had the vehicles been *as represented*. The Class Vehicles *as represented* did not have faulty ignition switches.
38. GM has since developed a partial “fix” for the ignition switch that restores the Class Vehicles to the *as represented* condition, and since early 2014 GM has begun applying that “fix” to the recalled vehicles. Had the “fix” been available and applied before the vehicles had been purchased, the vehicles would have been *as represented*. (I refer to this as a partial fix because I understand that Dr. Stevick, the engineering expert, is of the opinion that GM’s “fix” failed to fully address the danger posed by the Ignition Switch Defect.)<sup>13</sup>
39. The cost of the “fix,” had the fix been available and applied at the time of purchase, is a minimum estimate of what would be required to put Class Members in the position they would have been had the vehicles been *as represented*. The cost of the “fix,” is therefore the minimum compensation required to provide plaintiffs with the benefit-of-their bargain.
40. The cost of the fix is the minimum compensation required because for at least some, and perhaps many, consumers the repair cost may be insufficient compensation for the risk they were assuming by driving unsafe vehicles over a period of many years. In the US, the compensation fund established by GM regarding the ignition switch defect offered compensation to Class Vehicle owners for 124 deaths and 275 injuries in the US.<sup>14</sup> Considering that there were 2.2 million subject vehicles sold in the US, that is a rate of approximately one death or injury per 5,500 vehicles.

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different problem. The prices in these guides are not actual transaction prices. They are their publishers’ opinions as to market prices based on consideration of auction data and other information.

<sup>13</sup> Expert Report of Dr. Glenn Stevick, June 3, 2020.

<sup>14</sup> Press Release regarding the Final Report of the GM Compensation Claims Resolution Facility, December 10, 2015 as reported in various news media.

41. Because the cost of the fix is the minimum compensation, it may not fully measure the entirety of the “aggregate . . . of the defendant’s liability.” However, it clearly does measure “a part of the defendant’s liability to some or all Class Members.”<sup>15</sup>
42. If the repairs GM performed as part of its recalls failed to address fully the Ignition Switch Defect, i.e. these repairs were necessary but not sufficient to restore Class Vehicles to their *as represented* safe condition, (as opined by Glen Stevick in his report dated June 3, 2020) then the costs of the repairs performed by GM would only partially measure the economic harm suffered by Class Members. My estimate of the economic harm sustained by Class Members, which is based on GM’s repair costs, would therefore be necessarily understated and conservative, and the damages sustained by Class Members would be higher than my estimate.

### **The Cost of Repair is Reasonably Determined**

43. GM has been making the repairs to Class Vehicles using its network of GM franchised dealers.
44. GM reimburses the dealers for the parts and labor required for the repair, and therefore GM knows the cost of each repair. According to GM’s website the repair involves replacing the ignition switch, lock cylinder, and keys, and requires approximately 90 minutes of repair time.
45. The ignition switches were manufactured for GM by Delphi and other parts manufacturers. For every part it sells, GM assigns a list price for dealers (i.e., dealer cost), which includes a markup over what GM paid for the part, and GM assigns a MSRP for the sale of the part to consumers.
46. GM can be served with a discovery request for the GM cost, the dealer cost, and the MSRP for each of the repair parts involved in the ignition switch recall. If GM incurred additional costs to develop the fix, beyond the costs reflected in the repair parts, those costs are reasonably considered within the repair cost as well.
47. For each GM dealer, GM approves a warranty labor rate (\$ per hour) for repairs that dealers perform under GM’s warranty coverage. GM maintains the approved warranty labor rate for each dealer in a computer-accessible database. GM can query the database as to the average warranty labor rate among its dealers Canada-wide or any subgroup of dealers desired.

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<sup>15</sup> *Class Proceedings Act, 1992*, SO 1992, c6, section 24(1)(c).

48. GM can be served with a discovery request for the average warranty labor rate amongst its Canadian dealers.
49. A reasonable estimate of the cost of repair for a car with the ignition switch defect is the sum of the cost of the parts at GM's cost plus the averaged warranty labor rate per hour multiplied by 1.5 hours (i.e., 90 minutes). However, because most or all Class Members paid retail, not wholesale, for their vehicles, one could also substitute MSRP for GM's cost for the parts when performing the calculation described in the preceding sentence. Furthermore, GM would have specific data about repair times, which could be applied with more accuracy than an overall estimate.
50. In summary, GM has in its possession the data necessary to calculate aggregate damages measured as the cost of repairs. It knows: (1) the make, model, and model year of every Class Vehicle it sold in Canada;<sup>16</sup> (2) for each of those vehicles it knows the parts and labor hours required to complete a repair;<sup>17</sup> and (3) it knows the cost of those parts and the average dollar rate per hour it compensates dealers for completing the repairs. These data are easily retrieved from computer databases that GM maintains. From these data one can readily calculate aggregate damages without the need for individual proofs.

#### **The Repairs GM Performed Beginning in 2014 Do Not Terminate or Fully Mitigate Damages**

51. Vehicle safety regulations, manufacturer warranty obligations, brand integrity, and civil and criminal liability provide consumers with an expectation that vehicles purchased are either safe or will be promptly recalled and repaired if a safety defect is discovered.
52. GM personnel became increasingly aware of problems with the ignition switch beginning in at least 2002, but GM did not issue a recall until 2014. Owners of Class Vehicles drove them with the hidden defect, and with risk to their personal safety, beginning in 2003 and continuing through early 2014. Even after the recall it took months for an adequate supply of parts and dealer service appointments to accommodate all recall repairs.

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<sup>16</sup> Some sold vehicles may have since been scrapped or taken out of the country. An adjustment for this can be accomplished using either GM records or data on vehicles currently registered in Canada. We have used such registration data for Canada in the past.

<sup>17</sup> It is possible that the parts required for the repair might differ by model or model year, but GM would know this from its records and from the nearly three years of experience it has in performing these repairs since the original recalls in early 2014. It would be easy to adjust for any differences in parts by model and model year when performing the calculation of aggregate damages.

53. GM began making the repairs in 2014. The repairs likely cost GM a few hundred dollars per vehicle. Had consumers known of the risk to their personal safety when driving these cars from as early as 2003 to 2014 (recall the 124 deaths and 275 injuries in the US), it is likely that few if any would have still purchased these cars if offered a discount of the then present value of only a few hundred dollars.<sup>18</sup> In other words, the discounted present value of the cost of the repair in 2014 is almost certainly less than the overpayment loss at the time the vehicle was purchased new many years earlier. Therefore, repairs GM made in 2014 do not fully compensate Class Members for their losses.
54. In addition, treating a repair in 2014 as full mitigation would reward GM for delaying disclosure and delaying remedying the defect.
55. Finally, as described in a later section, consumers had to expend time and resources to receive the repairs, meaning that economic impact did not end at the provision of the repairs.

**Because the Repairs Made Years After GM First Detected the Ignition Switch Defect Do Not Fully Mitigate Damages, Compensation for Overpayment Is Not Double-Counting**

56. Compensation for overpayment is the only remedy that restores a Class Member to the state they were in prior to the time of purchase.
57. To the extent it is determined that repairs made beginning in early 2014 partially mitigate damages, the mitigation could be accounted for by a proportionate reduction in compensation for overpayment. For example, suppose, hypothetically, that a class vehicle purchased in 2004 has depreciated to 20 percent of its original value by 2014. In other words, the owner has consumed 80 percent of the value of the vehicle. In that case, one could conclude that the owner should be compensated for only 80 percent of the calculated overpayment (in this case 80% of the cost of repair).
58. The amount a vehicle depreciates may vary depending on its make, model, model year, trim-line, age, mileage, etc. GM sales records will identify the make, model, model year, trim-line and age of all Class Vehicles. The first three items, and possibly the fourth, are encoded in the Vehicle Identification Number (VIN) unique to each vehicle.
59. GM can be served with a discovery request for the vehicle information and VIN numbers in computer-readable form.

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<sup>18</sup> Consider a vehicle purchased new in 2005 and repaired ten years after purchase in 2015. The present value in 2005 of, say, a \$300 repair in 2015 is only \$184 using a hypothetical discount rate of 5%.

60. Alternatively, vehicle registration data in Canada, likely available for purchase with GM's assistance or under subpoena, would also enable determination of make, model, model year, and age as well. Vehicle registration data would also identify ownership periods for vehicles with successive owners (e.g., the original purchaser and a second owner who purchased the same vehicle used).
61. Given the make, model, and model year, one can obtain from various publications the depreciated values for a vehicle as of the date of recall or date of repair. Example publications are the Canadian Black Book, mentioned earlier, and VMR Canada.<sup>19</sup>
62. The adjustment for depreciation can be readily applied to the cost of repair surrogate for overpayment as described above. The same adjustment method can also be used to allocate compensation among successive owners of the same vehicle. For example, hypothetically, suppose the original buyer of the vehicle owned it for three years, and the second owner, who bought the vehicle used, has owned it since. Then the compensation could be divided among the two owners based on the amount of depreciation that occurred during each owner's period of ownership.
63. The same adjustment method can be used to determine compensation for lessees of a vehicle. For example, if the lease period was three years, the prorated compensation for the lessee would be calculated in the same way as in the preceding paragraph.

### **Loss of Income, Inconvenience and Associated Costs to Class Members Arising from the Repair of Their Vehicles**

64. Class Members who complied with the recall and took their vehicles to a GM dealership for repair also experienced loss of income (or loss of free time), inconvenience, and associated costs arising from the repair process. In a normal recall, these costs are not compensated. However, in this instance, due to GM's failure to disclose the defect, Class Members are seeking economic damages that would return them to the position in which they would have been had the vehicles

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<sup>19</sup> The use of published used car price guides for the purpose in this section would be less objectionable than when used for the purpose described earlier in paragraph 36. To see this, suppose, hypothetically, that the guides are accurate as to depreciation rates within  $\pm 5\%$ . Then for the purpose in this section, we would know that our estimate of 80% depreciation is in the range 75% to 85%. However, the use in paragraph 36 was for measuring *excess* depreciation. In that case we were interested in the *difference* between actual depreciation, say, 80%, and depreciation absent the defect, say 70%. If 70% and 80% are each accurate within  $\pm 5\%$ , then the difference of 10% (80% - 70%) would have a larger margin of error than  $\pm 5\%$ , closer to  $\pm 10\%$ , which is 100% of the 10% difference being measured.

been *as represented* at the time of purchase. In these circumstances, compensation for the process of obtaining the repair is appropriate, since consumers would not have been required to obtain the repair had the vehicles been sold without the defect.

65. GM documents state that the repair time is approximately 90 minutes and that customers may need to leave their vehicle at the dealership even longer than that because of scheduling requirements.<sup>20</sup> Using the 90-minute figure as an illustration, I describe two possible scenarios:
- a. First scenario – the Class member drives to the dealership, waits for the repair to be completed, and then drives to home, work, or elsewhere.
  - b. Second scenario – the Class member drives to the dealership, drops off the car, and uses either the dealer’s courtesy shuttle, a dealer loaner car, public transportation, pick-up by a friend or family member, or walks to get to their next destination. After the repair is completed, the travel occurs in the reverse order.
66. Under either scenario, the issue for damages is the amount of time spent and the value of that time. Below, I have set out a methodology for determining these damages as follows:
- a. In the first scenario the amount of time is the 90 minutes (1.5 hours) for the repair, plus the additional time GM states that dealerships may need for scheduling the repair, plus travel time to and from the dealership. In the second scenario, the amount of time is the time for two round trips to the dealership, plus any wait time associated with picking up the vehicle or loaner car at each end. It is my expectation that GM has in its possession service bulletins or other documents that identify the amount of time required to provide the recall repair. These documents would allow the estimate of time spent to be further refined based upon GM’s repair time guidelines.
  - b. The value of time will vary, from that of a high-income individual to a retiree. Even a retiree, however, will consider his or her time valuable if the repair prevents them from another desired activity. The disparity in value of time suggests that using some minimum time value, such as the minimum wage, will accurately and conservatively compensate Class Members for at least some economic damage for lost time and income. Applying average wages by geographic area would provide another reasonable estimate, as consumers either leave work to receive repairs or sacrifice leisure time during which they have already elected not to earn wages.

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<sup>20</sup> <http://www.gmignitionupdate.com/product/public/us/en/GMIgnitionUpdate/faq.html>

- c. As of October 1, 2016, the minimum wage in Canada varied by province from \$10.50 in Newfoundland and Labrador to \$13.00 in Nunavut.<sup>21</sup> We can apply \$10.50 as a minimum estimate. Therefore, the minimum value of lost income and/or lost time spent by Class Members in obtaining the repair would be 2 hours times \$10.50 times the number of Class Members. Additionally, it is our expectation that GM would have in its possession data concerning the number of repairs performed by province and territory. This information could be integrated with Provincial and Territorial wage data to calculate a weighted average value of time for the class.

While there may be additional costs associated with the repair – gasoline, bus fare, etc.

67. It is also feasible to develop class-wide estimates of loss of travel time to and from dealerships based on drive time calculations as described below.
68. The retail motor vehicle industry is data-intensive and features accurate and extensive reports of customer and dealership activity. One building block of the industry data is the vehicle registration. The registration process results in a comprehensive and detailed record of vehicle purchase and ownership. Various data providers, such as Experian and IHS, obtain the registration data from the governmental agencies, summarize counts of registrations at various levels of geographic detail (e.g., by province, county, Postal Code, etc.) and time detail (month, year) and license the data for use by motor vehicle manufacturers, dealers, and companies like Fontana. In my experience, data vendors in Canada compile and license this information.
69. The Vehicle Identification Number (“VIN”) is part of each registration record. Each vehicle has a unique 17-digit VIN. The vehicle manufacturer encodes in the VIN relevant information such as the vehicle line make, model, model year, and various other vehicle attributes.
70. Data available for Canada includes vehicle registrations and counts of vehicles in operation (“VIOs”) from IHS Markit Canada. This data is organized by what IHS Markit calls dissemination areas (“DAs”). These DAs are similar in size to Postal Codes. DAs are also superior to census tracts in part because they cover the entire country. The boundaries of these DAs are available for purchase from DMTI, and drive times are able to be calculated using the Google API. Dealer Locations are obtained using the Manufacturer Internet Site. Repair data from GM with dealer name and/or address with repair dates can be used as a reference for historical network

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<sup>21</sup> Retail Council of Canada website:  
<http://www.retailcouncil.org/quickfacts/minimum-wage>



placements. IHS Markit's monthly nationwide sales data is another possible reference for historical network placements. Google Maps street view, dealer Facebook pages, internet archives, and third-party internet sites are sources for placement, old addresses, and network change dates. Statistics Canada provides wage rates via their website for each Province or Territory, and also provides inflation adjustments with the Consumer Price Index. GM possesses recall bulletins and 573 letters which can provide repair data with line make, model, model year, province/territory, field action labor code, field action number, and field action repair date in order to calculate actual repair times spent and number of repair visits.

71. The next step of the analysis would be to determine how long it would take for owners of Subject Vehicles to drive to the nearest GM dealerships. As explained immediately above, a logical approximation of the starting point of the consumer's trip is the centroid of the Postal Code. It is my expectation that GM knows which dealerships it paid to perform the recall repairs. While we do not know which dealership each individual consumer elected for their repairs, it is a conservative assumption that consumers elected the closest GM dealership of their brand. The centroid of the Postal Code and the location of the nearest GM dealership of the vehicle's brand to centroid of the Postal Code provide the starting point and ending points of the consumer's repair travel.
72. Professional-level drive time software, such as Google API, can estimate approximate drive times between the two points of the consumer's travel. Drive time software generally allows the user to select multiple estimates associated with a trip, including best case or "optimistic," most likely case, and "pessimistic." Most likely case is a reasonable choice, although it may be conservative as consumers may be more likely to travel to and from dealerships before and after work hours when traffic tends to be heavier.
73. The preceding sections include methods to estimate repair time and drive times. It is likely that consumers would also experience other time costs, including transaction times and transportation wait times. The following proposes a method to estimate these time increments.

#### **Transaction Time**

74. Transaction Time ("TT") includes the time involved in scheduling an appointment, the time spent on the service drive waiting to meet with the service writer, the time spent with the service writer while the repair order is written, the time spent with the cashier completing paper work after the vehicle is repaired, and time spent waiting for the repaired vehicle to be brought forward from the service parking area.<sup>22</sup>

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<sup>22</sup>Early in the recall period, scheduling an appointment was non-trivial. The first ignition switch recall occurred in



75. Considering the processes involved, we consider six minutes to be the minimum total transaction time for drop-off and pick-up of a vehicle. If drop-off and pick-up are at rush hour, the transaction time could easily be twice that or more because of lines of customers at both ends. Thus, we consider six minutes to be conservative.

### **Transportation Wait Time**

76. The last time element is transportation wait time (“TWT”). This time element applies only to the scenario in which the vehicle is dropped off at the dealership and left there for repair. This time element includes one or more of the following: the time spent waiting for availability of the courtesy shuttle, any delays during the shuttle trip compared to driving directly to home or work, time spent waiting for pick-up by a friend or family member, etc. Even use of a service loaner vehicle would involve some extra time for paperwork requirements.
77. Considering wait time for a courtesy shuttle and a circuitous routing, the transportation wait time at rush hour could easily exceed thirty minutes or more. With a service loaner vehicle, the transportation wait time could be minimal. To test the effects of various assumptions about TWT, damage calculations could include multiple options, e.g., zero minutes and five minutes, both of which are very conservative. Each of these options would be multiplied by two to reflect transportation wait times at both vehicle drop-off and pick-up. Using these two estimates, the range of aggregate TWT would be zero to ten minutes.
78. Collectively, the foregoing describes a methodology to a) estimate the amount of time expended by consumers to receive the recall and b) estimate the value of that time. The data necessary for these calculations are likely to be either in the control of GM or through public sources. My colleagues and I have performed similar analyses in the past, and it is my expectation that the analysis would be viable, feasible, and accurate in this matter.

### **SUMMARY**

79. In this affidavit I have set forth a method by which “the aggregate or a part of the defendant’s liability to some or all Class Members can reasonably be determined without proof by individual Class Members.”

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February 2014. It wasn’t until sometime in or before October 2014 that GM had produced sufficient parts to repair all vehicles (see General Motors Form 10-Qs for June 30, 2014, p. 30 and for September 30, 2014, p. 37.) Even if parts were available, dealer service appointments were also sometimes difficult to obtain due to the combination of demand for both normal maintenance and repair services and the repairs for the over 20 million vehicles GM recalled in 2014.

- a. The affidavit first describes why the preferred method of estimating Class damages is based on the amount by which Class Members overpaid for their vehicles because they were unaware of the ignition switch defect at the time of purchase. Had they been aware of the defect they would have paid less or not purchased the vehicle at all.
- b. The affidavit then explains the challenges in developing regression-based estimates of overpayment damages in this case and why a reasonable and conservative estimate for the amount of overpayment is the cost of the ignition switch repair. The cost of the repair, had the repair been available and applied at the time of purchase, is a minimum estimate of what would be required to put Class Members in the position they would have been had the vehicles been *as represented*. The surrogate is a minimum estimate of Class damages, and therefore only a partial measure of the Defendants' liability. The intuitive explanation of this is that the repair costs is the minimum amount of money that would have been required, if the repair had been available, for a consumer to receive the vehicle bargained for.
- c. The affidavit describes how the aggregate cost of repair for the Class can be determined on a class-wide basis using data that can be easily produced in discovery by GM and purchased from commercially available sources.
- d. Finally, the affidavit describes how to develop a minimum estimate of the additional lost income and/or lost time associated with obtaining the repair.

Respectfully Submitted.

Date: June 16, 2020



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Edward M. Stockton, M.S.

**EDWARD M. STOCKTON**

## EDUCATION

University of Arizona, Tucson, AZ

M.S., Agriculture and Resource Economics (Applied Econometrics), 2010.

Western Michigan University, Kalamazoo, MI

B.A., Economics, 1998

## POSITIONS

The Fontana Group, Inc., Tucson, Arizona

*Vice President Economics Services: 2012 - present*

*Director of Economics Services: 2011 - 2012*

*Case Manager: 2005 - 2011*

*Senior Analyst: 2000 - 2005*

*Analyst: 1998 - 1999*

Old Ina Corporation Tucson, AZ

*Supervisor, Analyst, Manager: 1995 - 1998*

## RESEARCH AND CONSULTING EXPERIENCE

Mr. Stockton studies complex economic problems across multiple industries, including the retail automobile and other complex markets for durable goods. Additionally, he consults on matters involving conceptual foundations and calculation of economic harm. He has provided consultation for clients in in numerous areas including:

- Retail automobile franchising, economics and marketing
- Economic impact of market malfunctions
- Allocation of new vehicles during shortages
- Franchise terminations and establishments
- Principles of customer satisfaction measurement
- Principles of sales performance measurement
- Financial forecasts and other analysis
- Applied econometrics
- Consumer credit markets
- Economic theory of competition and investment
- Competition in markets for durable, differentiated goods

## REPRESENTATIVE CLIENT ASSIGNMENTS

*Jason Counts, Donald Klein, Oscar Zamora, Derek Long, Bassam Hirmiz, Jason Silveus, John Miskelly, Thomas Hayduk, Christopher Hemberger, Individually And on Behalf of All Others Similarly Situated, v. General Motors, LLC, Robert Bosch GMBH, and Robert Bosch, LLC, Detroit, MI, 2019-*

Provided deposition testimony.

*Alfredo's Foreign Cars, Inc., d/b/a Larchmont Chrysler Jeep Dodge v. FCA US LLC, NY, NY 2019-*

Provided deposition testimony.

*Monteville Sloan, Jr., Raul Siqueiros, Todd and Jill Cralley, Joseph Brannan, Larry Goodwin, Marc Perkins, Thomas Shorter, Derick Bradford, Gabriel Del Valle, Kevin Hanneken, Edwin and Katelyn Doepel, Dan Madson, James Faulkner, Joseph Olivier, Scott Smith, Ross Dahl, Drew Peterson, Michael Ware, Steve Kitchen, John Knoll, Barbara Molina, Dennis Vita, William Davis, Jr., Thomas Szep, Mike Warpinski, William Martell, John Graziano, Joshua Byrge, Rudy Sanchez, Christopher Thacker, Kelly Harris, James Robertson, and Jonas Bednarek, Individually and on Behalf of All Others Similarly Situated v. General Motors LLC, San Francisco, CA, 2019-*

Provided deposition testimony.

*George Tershakovec, et al. v Ford Motor Company, Miami, FL, 2019-*

Provided deposition testimony.

*Continental Imports Inc. d/b/a Mercedes Benz of Austin v Swickard Austin, LLC d/b/a Mercedes Benz of South Austin, Austin, TX, 2019-*

Provided deposition and hearing testimony.

*Vista Ford Oxnard, LLC., d/b/a Vista Ford Lincoln of Oxnard v. Ford Motor Company and Ford of Ventura, Inc., d/b/a Ford of Ventura, Intervenor, Oxnard, CA, 2019-*

Provided deposition testimony.

*Colonial Chevrolet Co., Inc., et al.; Alley's of Kingsport, Inc., et al.; and Union Dodge, Inc., et al. v. The United States, Washington, DC, 2011-*

Provided deposition and trial testimony.

*Barber Group, Inc., d/b/a Barber Honda v. American Honda Motor Co., Inc., Galpinsfield Automotive, LLC, Intervenor. Bakersfield, CA, 2018-*

Provided deposition and hearing testimony.

*Association of Equipment Manufacturers, AGCO Corporation, CNH Industrial America LLC, Deere & Company, and Kubota Tractor Corporation, v. the Hon. Doug Burgum, Governor of the State of North Dakota, in His Official Capacity, and the Hon. Wayne Stenehjem, Attorney*

*General of the State of North Dakota, in His Official Capacity, and North Dakota Implement Dealers Association, Intervenor-Defendant, Bismarck, ND, 2018-*.  
Provided deposition testimony.

*Napleton's Arlington Heights Motors, Inc. f/k/a Napleton's Palatine Motors, Inc. d/b/a Napleton's Arlington Heights Chrysler Dodge Jeep RAM, an Illinois Corporation; et. al, v FCA US LLC, Chicago, IL, 2017-*.  
Provided deposition and hearing testimony.

*Star Houston, Inc. d/b/a Star Motor Cars v. Volvo Cars of North America, LLC, Houston, TX, 2017-*.  
Provided deposition and hearing testimony.

*Sioux City Truck Sales, Inc. v. Peterbilt Motors Company, Sioux City, IA, 2017-*.  
Provided deposition and hearing testimony.

*Capitol Buick GMC, LLC v. General Motors LLC, Baltimore, MD, 2017-*.  
Provided deposition and hearing testimony.

*Crown Chrysler Jeep, Inc. d/b/a Crown Kia v. Kia Motors America, Columbus, OH, 2017-*.  
Provided deposition and hearing testimony.

*Folsom Chevrolet, Inc. dba Folsom Chevrolet v. General Motors, LLC, Folsom, CA, 2017-*.  
Provided deposition and hearing testimony.

*Sunnyvale Automotive Inc., dba Sunnyvale Ford Lincoln v. Ford Motor Company, Sunnyvale, CA, 2017-*.  
Provided deposition testimony.

*Omar Vargas, Robert Bertone, Michelle Harris, and Sharon Heberling, individually and on behalf of a class of similarly situated individuals v. Ford Motor Company, Los Angeles, CA, 2017-*.

*Charles Johnson, et al. individually and on behalf of all others similarly situated v. Ford Motor Company, Huntington, WV, 2017-*.  
Provided deposition testimony.

*Shawn Panacci v. Volkswagen Aktiengesellschaft, Volkswagen Group Canada, Inc., Audi Aktiengesellschaft, VW Credit Canada, Inc. and Audi Canada, Toronto, Ontario, Canada, 2017-*.

*Rebecca Romeo and Joe Romeo v. Ford Motor Company and Ford Motor Company Canada, Limited, Toronto, Ontario, Canada, 2017-*.  
Provided cross-examination testimony.

*Duncan McDonald v. Samsung Electronics Canada, Inc.* Toronto, Ontario, Canada, 2017-.  
Provided cross-examination testimony.

*The Estate of Richard C. Poe, Richard C. Poe II v. Paul O Sergent, Jr., et al.*, El Paso, TX, 2017-.  
Provided deposition testimony.

*Star Houston, Inc. d/b/a Star Motor Cars v. VCWH. LLC d/b/a Volvo Cars West Houston and Volvo Cars of North America, LLC*, Houston, TX, 2017-.  
Provided deposition testimony.

*Option Consommateurs et Francois Grondin Personne Désignée C. Volkswagen Group Canada Inc. et al. (2L)*, Montreal, Quebec, 2017-.

*Option Consommateurs et Francois Grondin Personne Désignée C. Volkswagen Group Canada Inc. et al. (3L)*, Montreal, Quebec, 2017-.

*John M. McIntosh v. Takata Corporation, TK Holdings, Toyota Motor Corporation, Toyota Motor Manufacturing, Canada Inc., and Toyota Motor Manufacturing Indiana, Inc.*, Toronto, Ontario Canada, 2017-

*Rick A. Des-Rosiers and Stephen Kominar v. Takata Corporation, TK Holdings, Honda Motor Co., LTD, Honda of America Manufacturing, Inc., and Honda Canada, Toronto, Ontario, Canada* 2017-.

*Yogesh Kalra v. Mercedes-Benz Canada Inc., Daimler AG, Mercedes-Benz USA LLC and Mercedes-Benz Financial Services Canada Corporation*, Toronto, ON, Canada, 2017-.  
Provided cross-examination (deposition) testimony.

*Lake Forest Sports Cars, LTD v. Aston Martin Lagonda of North America, Inc.*, Chicago, IL, 2017.  
Provided deposition testimony.

*Shahriar Jabbari and Kaylee Heffelfinger on behalf of themselves and all others similarly situated v. Fargo Company and Wells Fargo Bank, N.A.* San Francisco, CA, 2016-.

*Matthew Robert Quenneville et al. v. Volkswagen Group Canada, Inc., Volkswagen Aktiengesellschaft, Volkswagen Group of America, Inc., Audi Canada, Audi Aktiengesellschaft, Audi of America, Inc., Inc., and VW Credit Canada, Inc. (2L)*, Ontario, Canada, 2016-.

*Matthew Robert Quenneville et al. v. Volkswagen Group Canada, Inc., Volkswagen Aktiengesellschaft, Volkswagen Group of America, Inc., Audi Canada, Audi Aktiengesellschaft, Audi of America, Inc., Inc., and VW Credit Canada, Inc. (3L)*, Ontario, Canada, 2016-.

*Fort Collins Nissan, Inc. d/b/a Tynan's Kia, v. Kia Motors America, Inc.*, Ft. Collins, CO, 2015-.  
Provided deposition testimony.

*In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, Napleton et al v. Volkswagen Group of America et al.*, No. 16-02086, 2015-.

Above including *J. Bertolet, Inc. et al v. Robert Bosch, LLC and Robert Bosch GmbH.*, MDL No. 02672-CRB (JSC), 2016-.  
Provided deposition testimony 8/2019.

*Northwest Hills Chrysler Jeep, LLC; Gengras Chrysler Dodge Jeep, LLC; Crowley Jeep Dodge, Inc.; Papa's Dodge, Inc. v. FCA US, LLC and Mitchell Dodge, Inc.*, Canton, CT, 2015-2017.  
Provided deposition and hearing testimony.

*VMDT Partnership, LP, v. Thornbury Township*, Delaware County, Pennsylvania, 2015-.  
Provided hearing testimony.

*John Deere Construction & Forestry Company v. Rudd Equipment Company, Inc.*, Houston, TX, 2015-2017.  
Provided hearing testimony.

*Ball Automotive Group d/b/a Ball Kia, v. Kia Motors America, Inc.*, San Diego, CA, 2015-2017.  
Provided deposition testimony.

*GB Auto Corporation d/b/a Frisco Kia, v. Corinth Automotive Plano, d/b/a Central Kia of Plano, Kia Motors America, Inc. Intervenor*, Dallas, TX, 2015-2017.  
Provided deposition testimony.

*Walter Enterprises, Inc., d/b/a Timmons Subaru v. Subaru of America, Inc.*, Long Beach, CA, 2016-2017.  
Provided deposition testimony.

*Motor Werks Partners, LP, v. General Motors, LLC*, Chicago, IL, 2015-2017.  
Provided deposition testimony.

*Jeff Looper et al., v. FCA US LLC, f/k/a Chrysler Group, LLC, et al.*, California and Texas, 2015-2016.  
Provided deposition testimony.

*In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, San Francisco, CA, 2015-2017.

*Dependable Dodge, Inc. v. Fiat Chrysler Automobiles, Inc.*, Canoga Park, CA, 2015-2017.  
Provided deposition and hearing testimony.

*Wayzata Nissan, LLC v. Nissan North America, Inc., et al.*, Wayzata, MN, 2015-2017.  
Provided pre-filed trial testimony.

*Glick Nissan, Inc. v. Nissan North America, Inc.*, Westborough, MA, 2015-2016.

*Volvo Construction Equipment North America, LLC v. Clyde/West, Inc.*, Spokane, WA, 2015.

*General Motors, LLC v. Hall Chevrolet LLC dba Hall Chevrolet*, Virginia Beach, VA, 2015-2016.

*Long Beach Motors, Inc. dba Long Beach Honda v American Honda Motor Co., Inc.*, Long Beach, CA, 2015.

*Tom Matson Dodge Inc. v. FCA US LLC.*, Seattle, WA, 2015.

*Ferrari of Atlanta*, Atlanta, GA 2015.

*Grossinger Autoplex, Inc. v. General Motors, LLC*, Chicago, IL, 2015-2016.  
Provided deposition and hearing testimony.

*Mathew Enterprise, Inc. v. Chrysler Group LLC*, San Jose, CA, 2015-2016.  
Provided deposition and trial testimony.

*Navistar v. New Baltimore Garage*, Warrenton, VA, 2015-2016.  
Provided hearing testimony.

*Mathew Enterprise, Inc., a California Corporation, and Mathew Zaheri, an individual v. Chrysler Group, LLC, a Delaware Liability Company; Chrysler Group Realty Company, LLC, a Delaware Limited Liability Company, and DOES 1-40*, San Jose, CA 2014-2015.  
Provided trial and deposition testimony.

*CNH America, LLC n/k/a CNH Industrial America, LLC v. Quinlan's Equipment, Inc.*, Racine, WI, 2014-2015.  
Provided deposition testimony.

*Grayson Hyundai, LLC and Twin City Hyundai, Inc., v. Hyundai Motor America*, Knoxville, TN, 2014-2015.  
Provided deposition testimony.



*TrueCar, Inc. v. Sonic Automotive, Inc., and Sonic Divisional Operations, LLC, Los Angeles, CA, 2015-2016.*

Provided deposition testimony.

*TECC, Complainant v. GM Respondent before the California New Motor Vehicle Board, Oakland, CA, 2014-15.*

*US District Court Southern District of NY in re General Motors LLC Ignition Switch Litigation, NY, NY, 2014-.*

*Feldten, LLC, d/b/a Tennyson Chevrolet v. Keith Lang, Lang Auto Sales, Inc., Gordon Chevrolet, Inc., Stewart Management Group, Inc., Scott Rama, Susan Ianni, and Mike Meszaros, and Gordon Chevrolet, Inc. & Stewart Management Group, Inc. Detroit, MI, 2014-2016.*

*Canadian Toyota Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation, 2014-.*

*Jim Hardman, Buick GMC, Gainsville, GA, 2014-2016.*

*Bates Nissan, Inc., v. Nissan North America Inc., Killeen, TX, October 2014-2017.*

Provided deposition and hearing testimony.

*Recovery Racing, LLC d/b/a Maserati of Fort Lauderdale v. Maserati North America, Inc., and Rick Case Weston, LLC, d/b/a Rick Case Maserati, Ft. Lauderdale, FL, 2014-.*

Provided hearing testimony.

*Sweeten Truck Center, L.C. v. Volvo Trucks North America, a Division of Volvo Group North America, LLC, Before the Texas Department of Motor Vehicles Motor Vehicle Division, Austin, TX, 2014-.*

Provided deposition and hearing testimony.

*Beck Chevrolet Co, Inc. v. General Motors LLC, New York, NY 2014-2016.*

Provided trial testimony.

*BSAG Inc., and Bob Stallings Nissan of Baytown, Inc. v. Baytown Nissan, Inc., Burklein Family Limited Partnership, Nissan North America, Inc., and Frederick W. Burklein, Harris County, TX 2014-.*

Provided deposition testimony.

*Richard C.B. Juca v. Larry H. Miller Corporation, Peoria, AZ, 2014.*

*General Motors, LLC v. Leep Chev, LLC, d/b/a Lujack's Chevrolet, Scott County, IA. 2014-2015*

Provided deposition testimony.

*Century Motors Corporation v. Chrysler Group, LLC et al.*, Wentzville, MO 2014-2015.  
Provided deposition and trial testimony.

*Keyes European, LLC v. Encino Mercedes, LLC, Steve Zubieta, David Floodquist, Shimon Broshinsky and Does 1-20*, Los Angeles, CA, 2014.

*Ohio Auto Dealers Association*, 2014.

*Transteck, Inc. d/b/a Freightliner of Harrisburg v. Daimler Trucks North America, LLC (Freightliner Trucks Division)*, Harrisburg, PA, 2014-2015.

*Butler Toyota et al v. Toyota Motor Sales*, Indianapolis, IN, 2014.

*Wayzata Nissan, LLC v. Nissan North America, Inc., et al.*, Wayzata, MN, 2013-2017.

*Santa Cruz Nissan, Inc., dba Santa Cruz Nissan v. Nissan North America, Inc.*, Santa Cruz, CA 2013-2015.  
Provided deposition and hearing testimony.

*Majid Salim v. Henry Khachaturian aka Hank Torian, Torian Holdings, Fremont Automobile Dealership, LLC., and Does 1-20*, Alameda County, CA, 2013-2014.  
Provided deposition and trial testimony.

*GMAC v. Lloyd Belt, Lloyd Belt GM Center, Inc., and Lloyd Belt Chrysler, Inc.*, Eldon, MO 2013-2014.  
Provided deposition testimony.

*General Motors v. Englewood Auto Group, LLC*, Englewood, NJ, 2012-2014.

*Bob Wade Autoworld v. Ford Motor Company*, Harrisonburg, VA, 2011-2012.  
Provided hearing testimony.

*Van Wie Chevrolet, Inc. d/b/a Evans Chevrolet v. General Motors LLC and Sharon Chevrolet, Inc.*, Baldwinsville, NY, 2012-2017.  
Provided deposition testimony.

*Midcon Compression L.L.C. v. Loving County Appraisal District*, Loving County, TX, 2013.  
Provided deposition testimony.

*Texas Automobile Dealers Association*, Austin, TX, 2013.  
Provided hearing testimony before Business and Industry Committee in Texas H.O.R.

*Tyler Automotive*, Niles, MI, 2013.

*Sutton Suzuki, Matteson, IL 2013.*

*Carson Toyota/Scion, Cabe Toyota/Scion, Norwalk Toyota/Scion and South Bay Toyota/Scion v. Toyota Motor Sales, U.S.A., Inc., Long Beach, CA, 2012-2013.*  
Provided deposition and hearing testimony.

*James T. Stone, individually, and on Behalf of JDJS Auto Center, Inc. v. Jacob A. DeKoker, Pro Financial, Inc., and JDJS Auto Center, Inc., Tyler, TX, 2012.*

*New Country Automotive Group, Saratoga Springs, NY, 2013-.*

*Goold Patterson, Las Vegas, NV, 2012.*

*James Rist v. Denise Mueting and the Dominican Sisters of Peace, Littleton, CO, 2012-2013.*

*Law Office of Gary E. Veazey, Memphis, TN, 2012.*

*Randy Reed Nissan, 2012.*

*Arent Fox, LLP, 2012.*

*Chrysler Group, LLC v. Sowell Automotive, Inc. et al., 2012-2013.*

*Morrie's European Car Sales, Inc. dba Morrie's Cadillac-Saab v. General Motors, LLC, Minneapolis, MN, 2012-.*  
Provided deposition testimony.

*Dulles Motorcars, Inc. d/b/a Dulles Subaru v. Subaru of America, Leesburg, VA, 2012-.*  
Provided hearing testimony.

*Bowser Cadillac, LLC v. General Motors, LLC v. Rohrich Cadillac, Inc., McMurray, PA, 2012-.*  
Provided hearing testimony.

*In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Expert Report of Products Liability Litigation, Santa Ana, CA, 2010-.*

*Bob Wade Autoworld, 2012.*

*Planet Subaru, John P Morrill, and Jeffrey R. Morrill v. Subaru of New England, Hanover, MA, 2011-2012.*

*Hill Nissan v. Jenkins Nissan, Winterhaven, FL, 2011-2012.*

*Burns & Levinson*, Boston, MA 2011-.

*Brydon, Sweringen & England*, 2011.

*Napleton Automotive Group*, Chicago, IL, 2011.

*Orloff Imports*, Chicago, IL, 2011.

*Boas International Motors, dba San Francisco Honda*, San Francisco, CA, 2011-.

*Carson CJ, LLC and Kenneth Phillips v. Sonic Automotive, Inc., Sonic-Carson F, Inc, Avalon Ford, Inc. dba Don Kott Chrysler Jeep, and Does 1 - 100*, Los Angeles, CA, 2010-2012.  
Provided deposition and hearing testimony.

*First United, Inc. A California Corporation dba De La Fuente Cadillac v. General Motors, Greiner Poway, Inc. and Does 1-50*, San Diego, CA, 2012.

*Ionia Automotive Management, LLC and Beverly Kelly v. Berger Motor Sales, Ned Berger, Jr, LC and Ned Berger Jr.*, Mason, MI, 2012-2013.

*Riverside Motorcycle, Inc. dba Skip Fordyce Harley-Davidson v. Harley-Davidson Motor Company*, Riverside, CA, 2011- 2012.  
Provided deposition and hearing testimony.

*Leep Hyu, LLC, an Iowa Corporation also known as Lujack Hyundai v. Hyundai Motors America, Green Family Hyundai Inc., and Green Family Holdings LLC*, Davenport, Iowa, 2011.  
Provided trial testimony.

*Royal Motor Sales*, San Francisco, CA, 2011-2012.

*Miller Barondess*, Los Angeles, CA, 2011.

*Brotherhood of Maintenance of Way Employee Division/IBT*, Washington, DC, 2011-.

*Star Houston, Inc., d/b/a Star Motor Cars v. Mercedes-Benz USA, LLC*, Houston, TX, 2010-2013.  
Provided deposition testimony and hearing testimony.

*Chapman's Las Vegas Dodge, LLC and Prestige Chrysler Jeep Dodge, LLC v. Chrysler Group LLC*, Las Vegas, NV, 2011- 2012.  
Provided deposition and hearing testimony.

*Laidlaw's Harley-Davidson Sales, Inc. dba Laidlaw's Harley-Davidson v. Harley-Davidson*

*Motor Company, Sacramento, CA, 2011- 2012.*  
Provided deposition and hearing testimony.

*Agrillo v. Martinez, Tucson, AZ, 2011.*

*Hyundai of Milford, LLC, d/b/a Key Hyundai v. Hyundai Motor America, Milford, CT, 2011.*

*Houston Mack Sales & Service d/b/a Houston Isuzu Truck, Inc. v. Hayes Leasing Company, Inc. d/b/a Hayes UD Trucks-Houston, Houston, TX, 2011-2012.*

*Bo Beuckmann Ford, Ellisville, MO, 2011-.*

*Boas International Motors dba San Francisco Honda v. American Honda Motor Co., San Francisco, CA, 2011.*

*Life Quality BMW, Brooklyn, NY, 2011-2012.*

*Forrester Lincoln Mercury v. Ford Motor Company, Chambersburg, PA, 2011-.*  
Provided hearing testimony.

*North Palm Motors, LLC d/b/a Napleton's North Palm Lincoln Mercury v. Ford Motor Company, West Palm Beach, FL, 2011.*

*Mega RV Corp. v. Mike Thompson Recreational Vehicles, Irvine, CA, 2010-.*  
Provided deposition testimony.

*Harry W. Zenville, Esq., San Diego, CA, 2010-.*

*Pond, Athey, Athey & Pond, Front Royal, VA, 2010-2013.*

*Daphne Automotive, LLC dba Eastern Shore Toyota and Shawn Esfahani v. Pensacola Motor Sales d/b/a Bob Tyler Toyota and Fred Keener, Mobile, AL, 2010-2011.*

*Gebhardt v. PCNA, Boulder, CO, 2011.*

*Fields Automotive Group, Glencoe, IL, 2011.*

*Laura Buick-GMC, Collinsville, IL, 2011.*

*Bredemann Family of Dealerships, Park Ridge, IL, 2011.*

*Transteck, Inc. d/b/a Freightliner of Harrisburg, 2004-*

*Bass Sox Mercer, Tallahassee, FL, 2011-.*

*The Collection*, Coral Gables, FL, 2011-2012.

*Manning, Leaver, Bruder & Berberich*, Los Angeles, CA, 2010-2012.

*Magic City Ford v. Ford Motor Company*, Roanoke, VA, 2010-2011.

*Bob Wade AutoWorld v. Ford Motor Company*, Harrisonburg, VA, 2010-2011.

*East West Lincoln Mercury*, Landover Hills, MD, 2010-2011.

*Stevens Love*, Longview, TX, 2010-2014.

*JP Chevrolet*, Peru, IL, 2010-2011.

*Bellavia & Gentile*, Mineola, NY, 2010-2011.

*Hayes Leasing v. Wiesner Commercial Truck Center*, Houston, TX, 2010.

*Link-Belt Construction Equipment Company v. Road Machinery & Supplies Co.*, Minneapolis, MN, 2010-2011.

Provided deposition testimony.

*Elliott Equipment Co., Inc. v. Navistar, Inc.*, Easton, Maryland, 2010.

Provided deposition testimony.

*Rally Auto Group, Inc. v. General Motors, LLC*, Palmdale, CA, 2010.

Provided hearing testimony.

*Ron Westphal Chevrolet v. General Motors, LLC*, Aurora, CO, 2010.

*Edmark Auto, Inc., v. General Motors, LLC*, Nampa, ID, 2010.

*Gurley-Leep Dodge, Inc. n/k/a Gurley Leep Dodge, LLC v. Chrysler Group, LLC*, Mishawaka, IN, 2010.

*Gurley-Leep Buick v. General Motors, LLC*, Mishawaka, IN, 2010.

*Leep Chev, LLC, v. General Motors, LLC*, South Bend, IN, 2010.

*Mike Finnin Motors, Inc., v. Chrysler Group LLC*, Dubuque, IA, 2010.

Provided hearing testimony.

*Sedars Motor Co., Inc. and Community Motors of Mason City, Inc. v. General Motors LLC*, Cedar Falls, IA, 2010.

*Burke, Warren, MacKay & Serritella, P.C.*, Chicago, IL, 2010-.

*First Family, Inc. d/b/a Bredemann Chevrolet v. General Motors, LLC*, Park Ridge, IL, 2010.

*Lou Bachrodt Chevrolet Co. d/b/a Lou Bachrodt Jeep v. Chrysler Group, LLC*, Rockford, IL, 2010.

Provided hearing testimony.

*Cape County Auto Park I, Inc. v. Chrysler Group, LLC*, Cape Girardeau, MO, 2010.

Provided hearing testimony.

*Fury Dodge, LLC v. Chrysler Group, LLC*, Lake Elmo, MN, 2010.

Provided hearing testimony.

*Midtown Motors, Inc., d/b/a John Howard Motors v. Chrysler Group LLC*, Morgantown, WV, 2010.

Provided hearing testimony.

*Deur Speet Motors, Inc. v. General Motors, LLC*, Fremont, MI, 2010.

*Village Chevrolet-Buick-Oldsmobile, Inc. v. General Motors LLC*, Carthage, MO, 2010.

*Arenson & Maas*, Cedar Rapids, IA, 2010-.

*Nyemaster, Goode, West, Hansell & O'Brien, PC*, Des Moines, IA, 2010

*C. Basil Ford, Inc. v. Ford Motor Company*, Buffalo, NY, 2010.

*Leonard, Street & Deinard*, Minneapolis, MN, 2010-2015.

*Dady & Gardner*, Minneapolis, MN, 2010.

*Star Houston, Inc., d/b/a Star Motor Cars v. Mercedes-Benz USA, LLC*, Houston, TX, 2009 - 2015.

*Mente Chevrolet Oldsmobile, Inc., F/K/A Mentel Chevrolet, Inc. T/A Mentel Chevrolet and Mentel Chrysler Dodge, Inc. and Donald M. Mentel v. GMAC*, Kutztown, PA, 2009-2011.

*Long-Lewis, Inc. v. Sterling Truck Corporation*, Besemer, AL, 2009-2011.

*Gossett Motor Cars, LLC v. Hyundai Motor America and Homer Skelton Auto Sales, LLC*, Memphis, TN, 2009-2010.

*Star Houston, Inc., d/b/a Star Motor Cars v. Mercedes-Benz USA, LLC*, Houston, TX, 2009-.  
*In re: CHRYSLER LLC, et al. v. Debtors, Chapter 11*, New York, NY, 2009.

*Cooper and Walinski, LPA*, 2009.

*Jennings Motor Company, Inc., d/b/a Springfield Toyota v. Toyota Motor Sales USA, Inc.*, Springfield, VA, 2008-2010.

*General Motors v. Harry Brown's and (counterclaim) Harry Brown's and Faribault v. General Motors*, Faribault, MN, 2008.  
Provided declaration.

*Nick Alexander Imports v. BMW of North America*, Beverly Hills, CA, 2008.

*Monroeville Chrysler v. DaimlerChrysler Motors Company*, Pittsburgh, PA, 2008.

*Bowser Cadillac, LLC v. General Motors Corporation and Saab Cars USA, Inc.*, Pittsburgh, PA, 2008-2009.

*Carlsen Subaru v. Subaru of America, Inc.*, San Francisco, CA, 2008.  
Provided deposition and hearing testimony.

*Suburban Dodge of Berwyn, Inc., and Lepetomane XXII, Inc., v. DaimlerChrysler Motors Company, LLC and DaimlerChrysler Financial Services Americas LLC*, Chicago, IL, 2007-2008.  
Provided deposition testimony.

*Wiggin & Nourie, P.A.*, Manchester, NH, 2007-2008.

*McCall-T LTD., a Texas limited partnership d/b/a Sterling McCall Toyota & Sterling McCall Scion, et al. v. Gulf States Toyota, Inc., McCall- T LTD., et al. v. Madison Lee Oden et al.*, Houston, TX, 2007-2009.

*Volkswagen of America, Inc., and Aristocrat Volkswagen East, Inc. v. Royal Automotive, Inc., d/b/a Royal Volkswagen*, Orlando, FL, 2007-.

*Myers & Fuller, P.A.*, Tallahassee, FL, 2007-2009.

*Ed Schmidt Pontiac-GMC Truck, Inc. v. DaimlerChrysler Motors Company, LLC*, Perrysburg, OH, 2006-2009.



*Fowler Motors, Inc. v. BMW of North America, LLC*, Conway, SC, 2006-2008.

*Serpa Automotive Group, Inc. v. Volkswagen of America, Inc.*, Visalia, CA, 2006.  
Provided deposition and hearing testimony.

*Serra Chevrolet, Inc. d/b/a Serra Kia v. Kia Motors America, Inc., et al.*, Birmingham, AL, 2006-2009.

*Cardenas Enterprises, Inc., d/b/a Cardenas Toyota BMW v. Gulf States Toyota, Inc. and Toyota Motor Sales, USA, Inc.*, Harlingen, TX, 2006.

*North Avenue Auto, Inc., d/b/a Grand Honda v. American Honda Motor Co., Inc. a California Corporation*, Chicago, IL, 2006-2009.

*Saleen, Inc.*, Irvine, CA, 2006-2009.

*Golden Ears Chrysler Dodge Jeep*, Maple Ridge, BC, 2006-2007.

*Action Nissan, Inc. v. Nissan North America, Inc.*, Nyack, NY, 2005-2007.

*Harbor Truck Sales and Services, Inc. d/b/a Baltimore Freightliner v. DaimlerChrysler Motors Company, LLC*, Baltimore, MD, 2005-2007.

*PH Automotive Holding Corporation, d/b/a Pacific Honda, Cush Automotive Group, d/b/a Cush Honda San Diego, Tipton Enterprises, Inc., d/b/a Tipton Honda, Ball Automotive Group, d/b/a Ball Honda v. American Honda Motor Co., Inc.*, San Diego, CA, 2005-2007.

*Rusing & Lopez*, Tucson, AZ, 2005.

*Sonic Automotive, Inc. v. Rene R. Isip, Jr.; RRIJR Auto Group, Ltd., d/b/a Rene Isip Toyota of Lewisville, and John Eagle*, Lewisville, TX, 2005.

*Competitive Engineering, Inc. v. Honeywell International, Inc.*, Tucson, AZ, 2005.

*Century Motors Corporation v. DaimlerChrysler Motors Company, LLC.*, St. Louis, MO, 2005.

*Lone Star Truck Group*, Albuquerque, NM, 2005-2006.

*Thomas Bus Gulf Coast, Inc.*, Houston, TX, 2005.

*Stoops Freightliner*, Indianapolis, IN, 2005-2006.

*Cameron, Worley, Forham, P.C.*, Nashville, TN, 2004-2005.

*Transteck, Inc. d/b/a Freightliner of Harrisburg v. DaimlerChrysler Vans, LLC*, Harrisburg, PA, 2004.

*Around The Clock Freightliner Group, Inc.*, Oklahoma City, OK, 2004-2006.

*Alamo Freightliner*, San Antonio, TX, 2004-2005.

*GKG Motors, Inc. d/b/a Suzuki of San Antonio v. Cantwell Fielder, Ltd. d/b/a Quality Suzuki and American Suzuki Motor Corporation*, San Antonio, TX, 2004-2007.

*Maple Shade Motor Corporation v. Kia Motors America, Inc.*, Turnersville, NJ, 2004-2006.

*Star Houston, Inc. d/b/a Star Motor Cars, Inc. v. Mercedes-Benz-USA, LLC*, Austin, TX, 2004-2006.

*Perez Investments, Inc. d/b/a Rick Perez Autonet v. DaimlerChrysler Financial, L.L.C. d/b/a Chrysler Financial, L.L.C.; DaimlerChrysler Motors Corporation*, Austin, TX, 2004.

*Mazda Motors of America v. Maple Shade Motor Corporation, d/b/a Maple Shade Mazda et al.*, Maple Shade, NJ, 2004.

*Wickstrom Chevrolet-Pontiac-Buick-GMC. v. General Motors Corporation, Chevrolet Division*, Austin, TX, 2004.

*Sea Coast Chevrolet - Oldsmobile, Inc.* Belmar, NJ, 2004.

*Steve Taub, Inc. d/b/a Taub Audi v. Audi Of America, Inc.*, Santa Monica, CA, 2003.

*Toledo Mack Sales and Service, Inc. v. Mack Truck, Inc.*, Columbus, OH, 2003.

*Cooper & Elliot*, Columbus, OH, 2003.

*Bayshore Ford Truck Sales, Inc., et al. v. Ford Motor Company*, New Castle, DE, 2003-2013.

*Maritime Ventures, LLC; Maritime Motors, Inc. v. City of Norwalk; Norwalk Redevelopment Agency*, Norwalk, CT, 2003.

*Cox Nuclear Pharmacy, Inc. and Accuscan, LLC v. CTI Molecular Imaging, Inc.*, Mobile, AL, 2002-.

*Mazda Motor of America, Inc. v. David J. Phillips Buick-Pontiac, Inc.*, Orange County, CA, 2002- 2003.

*Kinnach Ford*, Norfolk, VA, 2002-.

*Brown & Brown Chevrolet v. General Motors*, Phoenix, AZ, 2002.

*New Country Toyota*, Durango, CO, 2002-2003.

*ALCO Cadillac-Pontiac Sales, Inc. v. General Motors Corp. et al*, Englewood Cliffs, NJ, 2001-2003.

*Al Serra Chevrolet, Inc. v. General Motors Corp.*, Flint, MI, 2001.

*Bayou Ford Truck Sales, Inc. d/b/a Bayou City Ford-Sterling v. Sterling Truck Corp.*, Houston, TX, 2001-2002.

*Fred Lavery Company et al. v. Nissan North America, Inc., et al.*, Birmingham, MI, 2000-2002.

*Tamaroff Buick and Sunshine Automotive, Inc. v. American Honda*, Detroit, MI, 2000-2006.

*Applegate Chevrolet, Inc. v. General Motors Corporation* Flint, MI, 2000-2001.

*Anchorage Chrysler Center, Inc. v. DaimlerChrysler Motors Corporation*, Anchorage, AK, 2000-2003.

*Ford Motor Company v. Pollock Motor Co., Inc. f/k/a Pollock Ford Co., Inc., v. Ford Motor Credit*, Gadsden, AL, 1999-2001.

*Suzuki Motor Corporation Japan v. Consumers Union of United States, Inc.*, Orange County, CA, 1999.

*Arata Motor Sales v. American Honda Motor Co., et al.*, Burlingame, CA, 1999.

*Star Motor Cars v. Mercedes-Benz of North America, Inc.*, Houston, TX, 1999.

*Dispatch Management Services Corp., in Aero Special Delivery, Inc. v. United States of America*, San Francisco, CA, 1999-2003 (est).

*Arnold Lincoln Mercury v. Ford Motor Co.*, Detroit, MI, 1999-2000.

*Landmark Chevrolet Corporation v. General Motors Corporation et al*, Houston, TX, 1998-2002.

*Ford Dealers of Greater Toronto*, Toronto, ONT, Canada 1998-2003.

*Volkswagen of America, Inc., et al. v. Pompano Imports, Inc., d.b.a. Vista Motor Company*,

Pompano Beach, FL, 1998-1999.

## PUBLICATIONS

Joseph S. Goode, Mark M. Leitner, and Ted Stockton, “Franchise and Dealership Litigation Damages” in *The Comprehensive Guide to Economic Damages*, ed. Jonathan Dunnitz and Nancy Fannon, 5<sup>th</sup> Edition, Business Valuation Resources, 2018.

"Understanding Sales Performance Measurements: How Average Became the New Minimum,” *Dealer Law Review*, Issue 14.3, Winter 2014, pp. 1-2.

*White Paper: Customer Satisfaction Measurement*, co-authored with Dr. Ernest H. Manuel, Jr., 2012.

*White Paper: Generalized Retail Sales Effectiveness* [restricted distribution], co-authored with Dr. Ernest H. Manuel, Jr., 2012.

*Time Inspection Study Report of the Brotherhood of Maintenance of Way Employee Division/IBT (BMWED)*, Submitted to The Committee on Transportation and Infrastructure of the House of Representatives and The Committee on Commerce, Science, and Transportation of the Senate, 2011.

*White Paper: Customer Satisfaction*, co-authored with Dr. Ernest H. Manuel, Jr., 2010.

*White Paper: Sales Effectiveness (RSI and MSR): Flaws in Manufacturers’ Measurement of Dealers’ Sales Performance*, co-authored with Dr. Ernest H. Manuel, Jr., 2010.

## OTHER

*Developments in Sales Metrics*, presentation to AutoCPA Group, Sun Valley, Idaho, October 1, 2018.

*Conditional Margin, Tiered Margins, Market Stratification, and Project Pinnacle*, presentation to National Association of Dealer Counsel, with Harry Zanville, April 25, 2017.

*Business Cycles and Fraud*, presentation to AutoCPA Group, September 23, 2016.

*Trends in Franchise Economics and a Theory of Dealer Investment*, presented to CPA group, Oklahoma City, OK, 2014.

“sales expectations vs Sales Expectations,” presentation to AutoCPA Group, 2013.

Testimony before the Texas House of Representatives on behalf of the Texas Automobile Dealers Association regarding public policy issue related to franchise law, April 9, 2013.

"Navigating the Post-Slump Environment," presentation to Chief Financial Officers Group, Palm Springs, CA, April 2012.

“How Dealers Can Protect Themselves” presentation to AutoCPA Group, 2011.

Minnesota Auto Dealers, issues related to General Motors and Chrysler bankruptcies and dealer arbitrations, 2010.

Arizona Electric Power Cooperative, hourly load forecasting using econometric estimation, 2006.

**ERNEST H. MANUEL, JR.**EDUCATION:

1984 Ph.D., Stanford University, Engineering-Economic Systems  
 1970 M.S., Stanford University, Engineering-Economic Systems  
 1968 B.S., Stanford University, Electrical Engineering

POSITIONS:

2005- Chairman of the Board, The Fontana Group, Inc. (a Mathtech, Inc. subsidiary), Tucson, Arizona  
 1997-2001 Director, Mathtech Pakistan (Pvt.) Ltd., Islamabad, Pakistan  
 1994- Director, The Fontana Group, Inc., Tucson, Arizona  
 1994-2011 President, The Fontana Group, Inc. (a Mathtech, Inc. subsidiary), Tucson, Arizona  
 1994-2012 Senior Vice President, Mathtech, Inc., Princeton, New Jersey  
 1990-2012 Vice President, Mathtech International, Inc., Princeton, New Jersey  
 1990-2015 Director, Mathtech International, Inc., Princeton, New Jersey  
 1986-2012 Vice President, Mathtech Holding Corp., Princeton, New Jersey  
 1986-2015 Director, Mathtech Holding Corp., Princeton, New Jersey  
 1986-2015 Director, Mathtech, Inc., Princeton, New Jersey  
 1985-1994 Vice President, Mathtech, Inc., Princeton, New Jersey  
 1984-2012 Director of Economics, Mathtech, Inc., Princeton, New Jersey  
 1983-1984 Director, Energy and Environmental Economics, Mathtech, Inc., Princeton, New Jersey  
 1982-1984 Assistant Director of Economics, Mathtech, Inc., Princeton, New Jersey  
 1979-1983 Manager, Energy and Environmental Economics, Mathtech, Inc., Princeton, New Jersey  
 1976-1979 Senior Economist, Mathtech, Inc., Princeton, New Jersey  
 1975-1976 Senior Economist, Mathematica, Inc., Mathtech Division, Princeton, New Jersey  
 1974-1975 Congressional Fellow, House Interior Committee, Subcommittee on Energy and Environment,  
 Washington, D.C.  
 1974 Consultant, Fluor Utah, Inc., San Mateo, California  
 1972-1974 Research Assistant, Department of Engineering-Economic Systems, Stanford University, Palo  
 Alto, California  
 1970-1972 Consultant/Systems Analyst, Division of Program Planning and Evaluation, Appalachian  
 Regional Commission, Washington, D.C.

RESEARCH AND CONSULTING EXPERIENCE:

From October 1994 through April 2011, Dr. Manuel was President of the Mathtech subsidiary, The Fontana Group, Inc., which provides management consulting and expert economic testimony for clients in the automobile industry and other industries. Since April 2011, he has served as non-executive Chairman while continuing to consult with clients on a part-time basis.

Dr. Manuel was previously responsible for the research and consulting activities of the Mathtech Economics Department. The Department's activities included policy, planning, economic, and statistical studies in the areas of energy, environment, education, finance, labor, industrial organization, and transportation. These studies were conducted for clients in the business, government, legal and non-profit sectors.

Dr. Manuel's particular areas of specialization are industry and market studies, policy studies, forecasting, and regulation. His personal work at Mathtech and Fontana has included more than 350 studies and consulting assignments in the following areas:

*The Automobile Industry:*

- Retail automobile franchising, economics and marketing.
- Automobile warranty reimbursement practices.
- Allocation of new vehicles during shortages.
- Franchise terminations.
- Franchise additions and relocations.
- Impact of high insurance rates on automobile sales.
- Fleet and retail vehicle pricing by domestic automobile manufacturers.
- Customer satisfaction measurement.
- Retail credit decision-making by automotive lenders.
- Automotive parts wholesaling and retailing.
- Economic damages.

*Litigation Economics:*

- Economic damages from breach of contract.
- Economic damages from dissolution of a joint venture.
- Economic damages from fraud or misrepresentation.
- Economic damages from medical, legal and audit malpractice.
- Retail automobile franchise litigation.
- Economic damages from failure of computer hardware and software.

*Energy and Electric Utilities:*

- Optimal use of the U.S. strategic petroleum reserve.
- Modeling of international oil supply and demand.
- Measurement of energy conservation program impacts.
- Markets for high efficiency electric motors.
- Energy conservation incentives regulation.
- Energy vulnerability analysis.
- Economic cost of oil supply disruptions.
- Energy emergency preparedness planning.
- Telecommunications and electric power service priority.
- Crisis organization and management
- Financial evaluation of waste-to-energy facilities.
- Labor productivity in the coal mining industry.
- Fuel choice in the pulp and paper industry.
- Deregulation of electric power generation.
- Industrial demand for cogeneration.
- Economics of electric utility cogeneration.
- Evaluation of alternative electric power sources.
- Optimal design and dispatch of industrial power plants.
- Demand for electric power in manufacturing industries.

*Environment:*

- Health effects of air pollution.
- Soiling and materials damage from air pollution.
- Economic impact of environmental regulation.
- Effects of acid rain on buildings and structures.
- Optimal timing of building repair.
- Markets for recycled materials.

- Pricing of residential solid waste collection services.
- Environmental regulation of diesel automobiles.
- Valuation of acute and chronic health risks.
- Impact of health, safety and environmental regulation on coal mining.
- Statistical analysis of methanol fuel volatility.
- Implicit valuation of environmental impacts on residential property values.

*Education (Post-Secondary):*

- Accreditation and licensing of post-secondary vocational institutions.
- College preparation, standardized testing and admissions.
- Organization, performance and profitability of guaranteed student loan collections.
- Valuation of a portfolio of federally-guaranteed student loans.
- Issues in the design of an income contingent student loan program.
- Forecasting the cost of an income contingent loan program.

*Finance:*

- Pricing of tax-exempt securities.
- Spot prices, futures prices and inventory behavior.
- Valuation of a portfolio of federally-guaranteed student loans.
- Analysis of grants and price subsidies to state and local governments.

*Transportation:*

- Forecasting air traffic at U.S. airports.
- Impact of new highways on regional development.
- Effects of ICC regulation on the trucking industry.

*Other:*

- Economics of the liability insurance system.
- Statistical quality control for computer operations.
- Software life-cycle maintenance costs.
- Sales of scientific journals and monographs.
- Usage patterns of computerized bibliographic services.
- Diamond jewelry retailing and manufacturing.

As a Congressional Fellow for the Subcommittee on Energy and the Environment of the House Interior Committee, Dr. Manuel conducted analyses of energy policy and also worked closely with the Office of Technology Assessment. He had lead responsibility for organizing the first Congressional hearings on Project Independence. He also prepared testimony and analyses on natural gas utility and electric utility regulation and energy facilities siting.

As a consultant to Fluor Utah, Inc., Dr. Manuel directed a study of the socio-economic constraints and impacts of significant expansions in domestic coal production.

While a Research Assistant in the Department of Engineering-Economic Systems at Stanford, Dr. Manuel participated in a series of seminar/workshops analyzing the effects of public policy decisions on national growth patterns.

As Consultant/Systems Analyst at the Appalachian Regional Commission, Dr. Manuel prepared an evaluation of the Appalachian Development Highway program as part of an overall evaluation of the Commission. He also directed a



staff study of national growth policy which emphasized the Commission's experience with policies and programs affecting national growth and development. He also prepared other study papers and speeches.

REPRESENTATIVE CLIENT ASSIGNMENTS:

*In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, San Francisco, CA, 2015-2016.

*In Re: General Motors LLC Ignition Switch Litigation*, New York, NY, 2014-.  
Provided deposition testimony.

*Daniel Javorsky et al v. Western Athletic Clubs, Inc.*, San Francisco, CA, 2014.

*Steven Hamilton, Edward Selmani, Nevila Celaj, Coreana Marburg and Claire Valliere v. Toyota Canada Inc., et al*, Toronto, Canada, 2013.

*Carduco, Inc. d/b/a Cardenas Metroplex v. Mercedes-Benz USA, LLC, Jack L. Holt, Craig W. Dearing, and Frank J. Oswald, Jr.*, Harlingen, TX, 2012-2013.  
Provided deposition and trial testimony.

*Cardenas Toyota*, Harlingen, TX, 2010.

*Royal Motor Sales*, San Francisco, CA, 2010.

*Star Houston, Inc., d/b/a Star Motor Cars v. Mercedes-Benz USA, LLC*, Houston, TX, 2010-2013.  
Provided deposition and hearing testimony.

*Eagle Ridge Manufacturing dba Techo v. Kilroy Realty* and cross-complaint *Kilroy Realty v. Eagle Ridge Manufacturing dba Techo*, Anaheim, CA 2010-11.  
Provided deposition and trial testimony.

*Daphne Automotive, LLC dba Eastern Shore Toyota and Shawn Esfahani v. Pensacola Motor Sales d/b/a Bob Tyler Toyota and Fred Keener*, Mobile, AL, 2010-11.  
Provided deposition and trial testimony.

*Jacksonville Chrysler Jeep Dodge v. Chrysler Group*, Jacksonville, FL, 2010.

*Cardenas Motors, Inc. v. General Motors, LLC*, Brownsville, TX, 2010.  
Provided hearing testimony.

*Cardenas Motors, Inc. v. Chrysler Group, LLC*, Brownsville, TX, 2010.

*New Country Toyota v. Chrysler Group, LLC*, Durango, CO, 2010.

*Cardenas Autoplex, Inc. v. General Motors, LLC*, Harlingen, TX, 2010.  
Provided hearing testimony.

*Russ Darrow Waukesha, LLC v. General Motors, LLC*, Waukesha, WI, 2010.

*Ed Payne Jeep-Eagle v. Chrysler Group, LLC*, Harlingen, TX, 2010.

*William Lehman Buick, Inc. v. General Motors, LLC*, Miami, FL, 2010.  
Provided hearing testimony.

*Monarch Dodge, Inc. and Mark Hodos v. Chrysler Group, LLC*, Ft. Lauderdale, FL, 2010.  
Provided hearing testimony.

*In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, Santa Ana, CA, 2010-2013.  
Provided deposition testimony.

*South Holland Dodge v. Chrysler Group, LLC*, Chicago, IL, 2010.  
Provided hearing testimony.

*Midway Autos, LLC/Viva Chevrolet v. General Motors, LLC*, El Paso, TX, 2010.

*R.K. Chevrolet, Inc. v. General Motors, LLC*, Vineland, NJ, 2010.

*Hatfield Buick GMC v. General Motors, LLC*, Redlands, CA, 2010.

*Musser Chevrolet Cadillac v. General Motors, LLC*, Terrel, TX, 2010.

*Shellworth Chevrolet Oldsmobile, Inc. v. General Motors, LLC*, Vacaville, CA, 2010.

*Kenny Ross Chevrolet-Cadillac v. General Motors, LLC*, Somerset, PA, 2010.

*Kenny Ross Chevrolet-Buick, Inc. v. General Motors, LLC*, Zelienople, PA, 2010.

*Scott Motor Company v. General Motors, LLC*, Reno, NV, 2010.

*Bayway Auto Sales, Inc., dba Bayway Volvo v. Sonic Houston V LP, dba Volvo of Houston and Sonic Momentum JVP LP, dba Momentum Volvo*, Houston, TX, 2010.  
Provided deposition and hearing testimony.

*Lee L. Saad Construction Company, Inc., and Lee L. Saad v. The Board of School Commissioners of Mobile County; Volkert & Associates, Inc.; Bobby Chad Vaughn; DPF Architects, Inc.; Freeman L. Russell, Jr.; et al*, Mobile, AL, 2010.  
Provided deposition testimony.

*Rockwall Imports LP, d/b/a Honda Cars of Rockwall, and American Honda Motor Co., Inc. v. The Allee Corporation, d/b/a Rusty Wallis Honda*, Dallas, TX, 2010.  
Provided deposition and hearing testimony.

*Atlantic Ford Truck Sales, Inc., dba Atlantic Truck Center v. Sterling Truck Corporation and Daimler Trucks North America LLC*, Pompano Beach, FL, 2010.

*Carduco, Inc., dba Cardenas Metroplex v. Mercedes-Benz USA, LLC*, Harlingen, TX, 2009-11.

*Digital Document Store, Inc., et al., v. Xerox Corporation*, Atlanta, GA, 2009-2012.

*Star Houston, Inc., d/b/a Star Motor Cars v. Mercedes-Benz USA, LLC*, Houston, TX, 2009-2010.  
Provided deposition and hearing testimony.

*Jerry Damson Honda*, Huntsville, AL, 2009.

*Chrysler LLC, et al., vs. Debtors (In Re: Chapter 11)* on behalf of Cardenas Motors, Inc., Brownsville, TX, 2009.

*Zimbrick, Inc. d/b/a Zimbrick Honda v. American Honda Motor Co.*, Madison, WI, 2008-2009.  
Provided deposition and hearing testimony.

*Jennings Motor Company, Inc., d/b/a Springfield Toyota v. Toyota Motor Sales USA, Inc.*, Springfield, VA, 2008-2010.  
Provided hearing testimony.

*Cornelius Ford*, Vallejo, CA, 2008.

*LGPC Dodge, LP d/b/a Park Cities Dodge v. Sonic Frank Parra Autoplex, LP d/b/a Frank Parra Chrysler Jeep Dodge, Chaperral Dodge, Inc. d/b/a Dallas Dodge Chrysler Jeep and Preston Chrysler Jeep, Inc. d/b/a Preston Chrysler Jeep*, Dallas, TX, 2008.

*Weslaco Motors, LP v. Bert Ogden Chevrolet, Inc, dba Bert Ogden Cadillac*, Weslaco, TX, 2008.  
Provided deposition and hearing testimony.

*Craig & Landreth, Inc. d/b/a Craig & Landreth Mazda, Larry Craig and James H. Smith, Jr. a/k/a Jimmy Smith v. Mazda Motor of America, Inc. d/b/a Mazda North American Operations*, Clarksville, IN, 2008-2011.  
Provided evidentiary hearing testimony, deposition testimony and trial testimony.

*Action Nissan, Inc., dba Universal Hyundai vs. Hyundai Motor America*, Orlando, FL, 2008.

*Great Metro AutoGroup, Inc. dba Metro Acura v. American Honda Motor Co., Inc.*, Ontario, CA, 2008.

*Euro Motorcars*, Bethesda, MD, 2008.

*Northglenn Dodge, Inc. v. Chrysler Corporation, DaimlerChrysler Motors and DaimlerChrysler Motors Company, LLC*, Denver, CO, 2008.

*Group 1 - Maxwell Ford*, Austin, TX, 2008.

*Carbone Pontiac-Buick-Cadillac-GMC*, Yorkville, NY, 2008.

*Towne Toyota*, Ledgewood, NJ, 2008.

*Gordon Rountree Motors, Ltd. v. Mazda Motor of America, Inc., d/b/a Mazda North American Operations*, Waco, TX, 2008.  
Provided deposition and trial testimony.

*General Motors Corporation v. Dealmaker, LLC dba Seaway Chevrolet v. Davidson Chevrolet Cadillac, Inc.*, Watertown, NY, 2008-09.  
Provided deposition testimony.

*RRR, LLC t/a Rosenthal Nissan, Passport Motorcars, Inc., t/a Passport Nissan of Alexandria, Brown's Nova Motors, LLC t/a Browns Nissan of Arlington v. Nissan North America, Inc.*, Falls Church, VA, 2007-2008.

*Nick Alexander Imports, Center Automotive, Inc., dba Center BMW, Dell Montell Motors, Ltd., dba Santa Monica BMW, Century West BMW, LLC, and Finchey Corporation of California, Inc., dba Pacific BMW v. BMW of North America, LLC*, Beverly Hills, CA, 2007-2008.

*Patsy Lou Chevrolet, Inc., et al. v. Applegate Chevrolet, Inc., et al. and General Motors Corporation v. Al Serra Chevrolet, Inc.*, Flint, MI, 2007.

*Royal Motor Sales*, San Francisco, CA, 2007.

*Sussman Automotive*, Jenkintown, PA, 2007.

*Hudson Hyundai, LLC v. Hyundai Motor America and Lynnes Hyundai, LLC*, Bloomfield, NJ, 2007.

*Gordon Rountree Motors, Ltd. v. Mazda Motor of America, Inc., d/b/a Mazda North American Operations, Ron Stach and Neal Berson*, Waco, TX, 2007-08.

*James W. Garrett; Bonita L. Garrett; James W. Garrett Trust and Bonita L. Garrett Trust v. McDonald's Corporation*, Tucson, AZ, 2007.

Provided deposition testimony.

*Lou Bachrodt Chevrolet*, Pompano Beach, FL, 2007.

*Carbone Pontiac-Buick-Cadillac-GMC*, Yorkville, NY, 2007.

*Suburban Dodge of Berwyn, Inc., and Lepetomane XXII, Inc., v. DaimlerChrysler Motors Company, LLC and DaimlerChrysler Financial Services Americas LLC*, Chicago, IL, 2007-2008.

Provided deposition testimony.

*Weight Watchers of Syracuse, Inc., Dieters of the Southern Tier, Inc., Weight Watchers of Oneida County, Inc., and Weight Watchers of Greater Wichita, Inc., vs. Weight Watchers International, Inc. and Weight Watchers.com, Inc.*, New York, NY, 2007-2008.

*Euro Motorcars*, Bethesda, MD, 2007.

*Colonial Nissan*, Medford, MA, 2007.

*Asbury Automotive Group, Inc. dba Plaza Motor Company v. Land Rover North America*, St. Louis, MO, 2007.

*Euro Motorcars*, Bethesda, MD, 2007.

*General Motors Corporation and Buddy Foster Chevrolet, Inc., v. Gordon Stewart Chevrolet, Inc.*, Tampa, FL, 2007.

Provided deposition testimony.

*Adam Smith, Fastlane Partners, LP and Fastlane Management, LLC, v. Harley-Davidson Motor Company, Inc.*, Waxahachie, TX, 2006-2007.

Provided deposition testimony.

*Star Houston, Inc. d/b/a Star Motor Cars, Inc. v. Mercedes-Benz-USA, LLC*, Austin, TX, 2006-2007.

*Brown Automotive Group*, Fairfax, VA, 2006.

*Mike Pallone Chevrolet and Rosenthal Chevrolet v. General Motors Corporation*, Alexandria, VA, 2006-2008.

Provided hearing testimony.

*Dealmaker Auto Group*, Watertown, NY, 2006.

*Lou Bachrodt Chevrolet, Inc.*, Pompano Beach, FL, 2006.

*Fowler Motors, Inc.*, v. *BMW of North America, LLC*, Conway, SC, 2006-2007.

*Terryville Chevrolet, LLC; Loehmann-Blasius Chevrolet, Inc.; and West Chevrolet Co.*, vs. *General Motors Corporation*, Waterbury, CT, 2006.  
Provided hearing testimony.

*S. Holland Dodge, Inc.*, v. *Daimlerchrysler Motors Company, LLC*, Midlothian, IL, 2006.  
Provided hearing testimony.

*Cardenas Enterprises, Inc.*, d/b/a *Cardenas Toyota BMW*, v. *Gulf States Toyota, Inc. and Toyota Motor Sales, USA, Inc.*, Harlingen, TX, 2006-2008.  
Provided deposition and hearing testimony.

*Arnold Chevrolet LLC, et al.*, v. *Tribune Company, Newsday, Inc., and Staluppi Holding Company, Inc.*, Long Island, NY, 2006.

*Grubbs Infiniti, Ltd.* v. *Nissan North America, Inc., Infiniti Division and Sewell FW, LP, dba Sewell Infiniti of Fort Worth*, Fort Worth, TX, 2006-2007.

*Saleen, Inc.*, Irvine, CA, 2006.

*Serra Chevrolet, Inc. Db a Serra Kia* v. *Kia Motors America, Inc. et al.*, Birmingham, AL, 2006-09.  
Provided deposition testimony.

*Sam DeSantis, an individual; and Atef Awada, an individual*, vs. *General Motors Corporation, a Delaware corporation; Pat Botsford, an individual; and DOES 1 through 25, inclusive*, Banning, CA, 2006.

*Classic Nissan, Inc.*, vs. *Nissan North America, Inc.*, Orlando, FL, 2006.  
Provided deposition and hearing testimony.

*Holman Enterprises*, Ft. Lauderdale, FL, 2005.

*Action Nissan, Inc.*, vs. *Nissan North America, Inc.*, Nyack, NY, 2005-2006.  
Provided deposition testimony.

*PH Automotive Holding Corporation, d/b/a Pacific Honda, Cush Automotive Group, d/b/a Cush Honda San Diego, Tipton Enterprises, Inc., d/b/a Tipton Honda, Ball Automotive Group, d/b/a Ball Honda*, v. *American Honda Motor Co., Inc.*, San Diego, CA, 2005-2006.  
Provided deposition, hearing and remand hearing testimony.

*Coleman Motors, Inc.* v. *Classic Motors of Texarkana, Inc. d/b/a Classic Jeep*, New Boston, TX, 2005.

*Euro Motorcars, Bethesda*, MD, 2005.

*Mazda Motor of America, Inc.* v. *College Park Cars, Inc.*, College Park, MD, 2005.

*Sonic Momentum JVP, LP, d/b/a Momentum Porsche and Sonic Advantage PA, LP, d/b/a Advantage Porsche*, v. *Northeast Automotive, LLC, d/b/a Porsche of North Houston and Porsche Cars of North America, Inc.*, Houston, TX, 2005.  
Provided deposition testimony.

*Ledgewood Kawasaki d/b/a Ledgewood Powersports v. Kawasaki Motors Corp, USA, Morris Motors Sports, LLC.*  
Ledgewood, NJ, 2005.

Provided hearing testimony

*Sonic Automotive, Inc. V. Rene R. Isip, Jr.; RRIJR Auto Group, Ltd., d/b/a Rene Isip Toyota of Lewisville, and John Eagle,* Lewisville, TX, 2005.

Provided deposition testimony.

*Competitive Engineering, Inc., v. Honeywell International, Inc.,* Tucson, AZ, 2005.

*GKG Motors, Inc. d/b/a Suzuki of San Antonio vs. Cantwell Fielder, Ltd. d/b/a Quality Suzuki and American Suzuki Motor Corporation,* San Antonio, TX, 2004-2006.

Provided deposition and hearing testimony.

*W & D Imports, Inc. d/b/a Willis Honda, v. American Honda Motor Co., Inc. and All Star Motors, LLC,* Burlington, NJ, 2004-2005.

Provided hearing testimony.

*American Honda Motor Co., Inc. and B.O.O., Inc., d/b/a Acura of South Florida v. Rick Case Auto, Inc., d/b/a Rick Case Acura,* Ft. Lauderdale, FL, 2004-2006.

Provided deposition and hearing testimony.

*Century Motors Corporation v. DaimlerChrysler Motors Company, LLC.,* St. Louis, MO, 2005.

Provided deposition testimony.

*Gables Lincoln-Mercury,* Miami, FL, 2004.

*Infiniti Automobiles of Norwood, Inc., v. Nissan North America, Inc. and Quirk Infiniti, Inc.,* Norwood, MA, 2004-2005.

Provided deposition and trial testimony.

*Bay Ridge Volvo American, Inc., Karp Automotive, Inc., and Wilmot Aviation Corp. d/b/a Best Motors, v. Volvo Cars of North America, Inc.* New York, NY, 2004-2006.

Provided deposition testimony.

*Mobile Satellite Ventures,* Reston, VA, 2004.

*Peltier Chevrolet,* Troup, TX, 2004-2005.

*Stadium Ford LLC, J&S Ford, and Ford of Englewood, Inc. v. Ford Motor Company,* West New York, NJ, 2004-2005.

*Group One Automotive,* Atlanta, GA, 2004.

*Plaza Motors,* St. Louis, MO, 2004.

*Kendall Ford,* Miami Florida, 2004.

*Asbury Automotive of St. Louis, LLC d/b/a Plaza Motors,* St. Louis, MO, 2004.

*General Motors Corp. v. Lou Bachrodt Chevrolet,* Coconut Creek, FL, 2004-2005.

*Eaton Motor Company, Inc., Charles E. Elliott v. General Motors Corporation*, Athens, TX, 2004-2005.  
Provided deposition and hearing testimony.

*ARBM, Inc. d/b/a Livermore Honda V. American Honda Motor Company, Inc.*, Livermore, CA, 2004.

*Lanham Ford, Inc. v. Ford Motor Company*, Lanham, MD, 2004-2005.  
Provided hearing testimony.

*Patterson Toyota*, Wichita Falls, TX, 2004.

*Maple Shade Motor Corporation v. Kia Motors America, Inc.*, Turnersville, NJ, 2004-2005.  
Provided deposition testimony.

*Star Houston, Inc. d/b/a Star Motor Cars, Inc. v. Mercedes-Benz-USA, LLC*, Austin, TX, 2004-2006.  
Provided deposition and hearing testimony.

*R.L. Imports, Inc., d/b/a Bloomington Subaru v. Subaru of America, Inc./Mid-America Region*, Bloomington, MN, 2004-2005.  
Provided deposition and trial testimony.

*Rutherford Dawson, vs. Ford Motor Company, et al.*, Concord, CA, 2004-2006.  
Provided deposition and trial testimony.

*Person Ford v. Ford Motor Company*, La Verne, CA, 2004-2006.  
Provided deposition and trial testimony.

*Mazda Motors of America v. Maple Shade Motor Corporation, d/b/a Maple Shade Mazda et al.*, Maple Shade, NJ, 2004.

*Allen Samuels Austin Dodge, Inc., d/b/a Allen Samuels Dodge d/b/a Allen Samuels Heart of Texas Dodge v. Austin Automotive LP d/b/a Texas Chrysler Dodge Jeep and Prestige Chrysler Northwest, Ltd., d/b/a Maxwell Dodge*, Austin, TX, 2004 - 2005.  
Provided deposition and hearing testimony.

*Perez Investments, Inc. d/b/a Rick Perez Autonet vs. DaimlerChrysler Services North America, L.L.C. d/b/a Chrysler Financial, LLC; and DaimlerChrysler Motors Corporation*, Austin, TX, 2004.  
Provided deposition testimony.

*Cardenas Toyota*, Harlingen, TX, 2004.

*Anaheim Chevrolet*, Anaheim, CA, 2004.

*Wickstrom Chevrolet-Pontiac-Buick-GMC. vs. General Motors Corporation, Chevrolet Division*, Austin, TX, 2004.  
Provided deposition testimony.

*BMW of North America, LLC and Germain Motor Company, d/b/a Germain BMW of Naples, v. Sonic-FM, Inc., d/b/a BMW of Ft. Myers*, Naples, FL, 2004.  
Provided deposition testimony.

*General Motors Corporation and Buddy Foster Chevrolet, Inc., v. Roger Whitley Chevrolet, Inc., Gordon Stewart Chevrolet, Inc.*, Tampa, FL, 2004.  
Provided deposition and hearing testimony.

*DaimlerChrysler Motors Corporation and Tamiami Automotive Group West Kendall LLP, d/b/a Tamiami Chrysler Jeep Dodge West Kendall vs. Dadeland Dodge, Inc.*, Miami, FL, 2004.  
Provided deposition testimony.

*Suzanne Patterson Jones et al v. Cedars-Sinai Medical Corporation et al*, Los Angeles, CA, 2004 (with Jerome Bentley).

*James-Rivard Pontiac GMC, Pasco Motors, Inc., Century Buick and Brandon Buick*, Tampa, FL, 2003.

*Sea Coast Chevrolet - Oldsmobile, Inc.* Belmar, NJ, 2004.

*Mercedes-Benz of Princeton*, Princeton, NJ, 2003.

*Liberty Lincoln Mercury, Inc. et al. v. Ford Motor Company*, Newark, NJ, 2003-10.

*Champion Chevrolet*, Howell, MI, 2003-2004.

*Fox Hills Auto, Inc., d/b/a Airport Marina Ford, Walker Motor Co., d/b/a Buerge Ford, Crenshaw Motors, Inc., d/b/a Crenshaw Ford, Ford of Santa Monica, Inc., d/b/a Santa Monica Ford vs. Ford Motor Company*, Beverly Hills, CA, 2003-2004.  
Provided deposition and hearing testimony.

*Bayshore Ford Truck Sales, Inc., Motor City Trucks, Inc., Colony Ford Truck Center, Inc., et al vs. Ford Motor Company*, New Castle, DE, 2003-2014.  
Provided deposition testimony and trial testimony.

*Open Road Edison, Inc. d/b/a Open Road BMW v. BMW of North America, LLC and Hunterdon Motors, Inc. d/b/a Hunterdon BMW*, Hunterdon, NJ, 2003-2004.

*HRB Royalty, Inc., v. Norris Armstrong, et al.*, Mobile, AL, 2003-2006.  
Provided deposition testimony.

*Crown Mitsubishi*, St. Petersburg, FL, 2003.  
*Fuller Ford*, Chula Vista, CA, 2003.

*General Motors Corporation and McNamara Pontiac, Inc. d/b/a McNamara Pontiac Buick GMC v. Fountain Oldsmobile-GMC Truck, Courtesy Buick Pontiac-GMC, Orange Buick GMC*, Orlando, FL, 2003.  
Provided deposition and hearing testimony.

*Freehold Subaru, LLC v. Subaru Distributors Corp., Subaru Of America, Inc. and Oasis Subaru, LLC d/b/a Oasis Auto Center/Oasis Subaru*, Freehold, NJ, 2003-2004.  
Provided hearing testimony.

*Steve Taub, Inc. d/b/a Taub Audi v. Audi Of America, Inc.*, Santa Monica, CA, 2003.

*Huntington Beach Chrysler Jeep, Inc. a Delaware corporation, d/b/a Huntington Beach Hummer, v. General Motors Corporation, et al.*, Huntington Beach, CA, 2003.  
Provided deposition and trial testimony.

*Don Comer Ford*, Portsmouth, VA, 2003.



*Ford World, L.L.C. d/b/a Condit's Truck World of Newton v. Sterling Truck Corporation and Hoover Truck Centers Newton, NJ, 2003.*  
 Provided hearing testimony.

*BUC International Corp. v. International Yacht Council, Ltd., et al, Ft. Lauderdale, FL, 2003.*

*Rogers Dodge, Inc., d/b/a Alvin Dodge, and DaimlerChrysler Motors Corporation, v. Gulf Coast Dodge, Inc., d/b/a Clear Lake Dodge, Alvin, TX, 2003.*

*Earl Stewart Toyota, West Palm Beach, FL, 2003.*

*Maritime Ventures, LLC; Maritime Motors, Inc. v. City of Norwalk; Norwalk Redevelopment Agency, Norwalk, CT, 2003*  
 Provided deposition and trial testimony.

*Jost Imports, Inc., d/b/a Acura of Denville v. American Honda Motor Co., Inc., Denville, NJ, 2003-2005.*

*Frankel Cadillac Co. d/b/a Land Rover Hunt Valley, 24<sup>th</sup> Street Cadillac Corp. d/b/a Chesapeake Cadillac Jaguar, Inc., Laurel Automotive Group, Inc., d/b/a Laurel Jaguar v. Land Rover North America, Inc., Ford Motor Co., Cockeysville, MD, 2003-2005.*

*Long Beach Honda, Norm Reeves, Inc. d/b/a Norm Reeves Honda Superstore, LLL Sales Co. LLC, d/b/a Gardena Honda, Scott Robinson Honda, Inc. v. American Honda Motor Company, Inc., Los Angeles, CA, 2003.*  
 Provided deposition and hearing testimony.

*Pacific Motors Group, Inc. v. Williams Express, Inc., Anchorage, AK, 2003.*  
 Provided deposition testimony.

*Chapman Ford v. Ford Motor Co., Philadelphia, PA, 2002.*

*Turnpike Ford, Marmet, WV, 2002.*

*Mark Motors, Inc., v. Mercedes-Benz USA, LLC, Chicago, IL, 2002.*  
 Provided deposition testimony.

*Cox Nuclear Pharmacy, Inc. and Accuscan, L.L.C., v. CTI Molecular Imaging, Inc., Mobile, AL, 2002-2003.*  
 Provided deposition testimony.

*New Country Toyota, Durango, CO, 2002-2003.*

*Tom Kadlec Honda, Rochester, MN, 2002.*

*McGough Oldsmobile-GMC-Isuzu, Montgomery, AL, 2002-2004.*

*Kimnach Ford, Norfolk, VA, 2002-2005.*

*Foulke Management Corporation d/b/a Cherry Hill Dodge, Inc. d/b/a Cherry Hill Subaru, a Delaware corporation; Charles W. Foulke, Jr.; and Joseph H. McErlean, v. Subaru of America, Inc., a New Jersey corporation, Cherry Hill, NJ, 2002-2003.*

*Dodge of Paramus, Inc. d/b/a Paramus Hyundai v. Hyundai Motor America et al., Paramus, NJ, 2002.*

*Henry Day Ford, Salt Lake City, UT, 2002.*

*Lanham Ford*, Lanham, MD, 2002.

*Precision Toyota*, Tampa, FL, 2002.

*Dadeland Chevrolet*, Miami, FL, 2002.

*Hesco Parts, LLC v. Ford Motor Company and Visteon Corporation*, Louisville, KY, 2002-2009.  
Provided deposition testimony.

*Earnel Durden v. General Motors Corp., et al.*, Los Angeles, CA, 2002-2003.

*Brown & Brown Chevrolet v. General Motors*, Phoenix, AZ, 2002.  
Provided hearing testimony.

*General Motors Corp. and Martell Pontiac-GMC, Inc. v. William Lehman Buick, Inc.*, Miami, FL, 2002.

*Colonial Volkswagen-Subaru, Inc. v. Subaru of America, Inc.*, Harrisburg, PA, 2002.  
Provided hearing testimony.

*Phoenix Motor Company*, Phoenix, AZ, 2002.

*Huntington Beach Hummer*, Huntington Beach, CA, 2002.

*Bill Newbold Toyota v. Toyota Motor Sales, U.S.A., et al.*, Belleville, IL, 2002-2003.  
Provided deposition testimony.

*Melrose Ford*, Oakland, CA, 2001-2003.

*Person Ford*, LaVerne, CA, 2001.

*ALCO Cadillac-Pontiac Sales, Inc. v. General Motors Corp. et al*, Englewood Cliffs, NJ, 2001-2003.

*Al Serra Chevrolet, Inc. v. General Motors Corp.*, Flint, MI, 2001.

*Gables Honda*, Miami, FL, 2001.

*Euro Motorcars*, Bethesda, MD, 2001.

*Bayou Ford Truck Sales, Inc. d/b/a Bayou City Ford-Sterling v. Sterling Truck Corp.*, Houston, TX, 2001-2002.  
Provided deposition testimony.

*Lexus of Manchester*, Manchester, NH, 2001.

*Sullivan Oldsmobile-Cadillac*, Ocala, FL, 2001.

*Grubbs Nissan Mid-Cities, Ltd. v. Nissan North America, Inc. et al*, Ft. Worth, TX, 2001-2005.  
Provided deposition and hearing testimony.

*B.A. Advertising, Inc., et al, v. General Motors Corp., et al*, Union County, NJ, 2001-2003.  
Provided deposition testimony.

*Gallo Mazda v. Mazda North American Operations*, Boston, MA, 2001.  
Provided deposition and trial testimony.

*Grand Prize Chevrolet*, Miami, FL, 2001.

*Dodge Town USA, Inc.*, Oklahoma City, OK, 2001.

*James A. Wilson et al v. The McCarty Company et al*, Tucson, AZ, 2001.

*Sunnyvale Volkswagon v. Volkswagon*, Sunnyvale, CA, 2001.

*Motor Werks Partners, L.P. v. BMW of North America, Inc.*, Chicago, IL, 2001.  
Provided deposition and hearing testimony.

*Tropical Cadillac-Oldsmobile*, Bradenton, FL, 2001.

*Crest Cadillac-Oldsmobile*, Venice, FL, 2001.

*Crystal Motors, Inc. d/b/a Crystal Dodge v. DaimlerChrysler et. al.*, Somerville, NJ, 2001.  
Provided deposition and hearing testimony.

*Westminster Harley-Davidson v. Harley Davidson*, Westminster, CA, 2001. September 10, 2002

*Ralph Oldsmobile Inc. v. General Motors Corporation*, New York, NY, 2001-2006.

*Fresno Dodge v. DaimlerChrysler et. al.*, Fresno, CA, 2001.  
Provided deposition and hearing testimony.

*Lund Cadillac*, Phoenix, AZ, 2001.

*Middle East Traders v. DaimlerChrysler*, Doha, Qatar, 2000-2001.  
Provided deposition and arbitration testimony.

*Bachrodt Chevrolet*, Coconut Creek, FL, 2000-2001.

*Applegate Chevrolet, Inc. v. General Motors Corporation* Flint, MI, 2000-2001.  
Provided deposition and trial testimony.

*American Honda Motor Company and Rick Case Cars, Inc., d/b/a Rick Case Honda v. Page Brothers Associates, Inc., d/b/a Coral Springs Honda*, Broward County, FL, 2000-2001.  
Provided deposition testimony.

*Tomball Ford*, Houston, TX, 2000.

*Chapman BMW*, Phoenix, AZ, 2000.

*Somersworth Nissan*, Somersworth, New Hampshire, 2000.

*Anchorage Chrysler Center, Inc., v. DaimlerChrysler Motors Corporation*, Anchorage, AK, 2000-2003.  
Provided deposition and trial testimony.

*Ackerman Buick, Inc. v. General Motors Corporation*, St. Louis, MO, 2000-2001.  
Provided deposition testimony.

*Tamaroff Buick and Sunshine Automotive, Inc. v. American Honda*, Detroit, MI, 2000-2001.  
Provided deposition testimony.

*Alpine Jaguar*, Ft. Lauderdale, FL, 2000.

*County Motors, Inc., v. General Motors Corporation and Lance, Inc.*, Pawtucket, RI, 2000-2001.  
Provided deposition and trial testimony.

*Hollingsworth Richards, L.L.C. d/b/a Honda of Covington v. American Honda Motor Company, Inc.*, New Orleans, LA, 2000-2001.  
Provided hearing testimony.

*General Motors Corporation and Ed Morse Operations, Inc., d/b/a Ed Morse Cadillac v. Coral Cadillac, Inc.*, Sunrise, FL, 2000.  
Provided deposition testimony.

*Shenkarow Realty Advisors*, Tucson, AZ, 2000.

*Bill Jacobs BMW*, Naperville, IL, 2000.

*Georgetown Motors, Inc. d/b/a Barrett Mitsubishi v. Town North Imports d/b/a Town North Mitsubishi*, Austin, TX, 2000.

*Euro Motorcars, Inc., v. American Honda Motor Company, Inc.*, Bethesda, MD, 2000-2002.

*Fred Lavery Company et al v. Nissan North America, Inc., et al*, Birmingham, MI, 2000-2002.  
Provided deposition and trial testimony.

*Colonial Imports Corporation d/b/a Volvo of Nashua v. Volvo Cars of North America*, Nashua, NH, 2000.  
Provided deposition testimony.

*Ford Motor Company v. Pollock Motor Co., Inc. f/k/a Pollock Ford Co., Inc., v. Ford Motor Credit*, Gadsen, AL, 1999-2001.

*Key Group, Ltd. and Shenkarow Realty Advisors*, Tucson, AZ, 1999.

*Lew Webb Toyota of Buena Park v. Toyota Motor Sales, U.S.A.*, Buena Park, CA, 1999-2000.

*University Mazda and Lee Johnson Mazda v. Mazda Motors of America, Inc.*, Bellevue, WA, 1999.  
Provided hearing testimony.

*Heritage Jeep-Eagle, Inc. v. DaimlerChrysler Motors Corporation et .al*, Boston, MA, 1999-2000.

*Lakes Subaru*, Laconia, NH, 1999.

*George Lussier Enterprises, Inc. d/b/a Lussier Subaru et al. v. Subaru of New England et al.*, Manchester, NH, 1999.

*Berge Ford*, Mesa, AZ, 1999.

*Ernie Haire Ford v. Ford Motor Company*, Tampa, FL, 1999-2000.  
Provided deposition testimony.

*Midwest Automotive III, LLC, a subsidiary of Planet Automotive Group v. Jaguar Cars*, Clive, IA, 1999.  
Provided deposition and hearing testimony.

*Harley-Davidson Motor Company v. Power Play, Inc.* Kennewick, WA, 1999-2000.  
Provided deposition testimony.

*Prime Health, Inc. et al. v. Big 5 accounting firm*, Mobile, AL 1999-2001.

*Isuzu Motors Limited v. Consumers Union of United States, Inc.*, Orange County, CA, 1999-2000.  
Provided deposition and trial testimony.

*Bauer Motors, d.b.a. Bauer Jaguar v. Jaguar Cars*, Santa Ana, CA, 1999-2000.

*Capitol Ford*, San Jose, CA, 1999.

*Park Place Jaguar, LTD., d/b/a Park Place Jaguar of Houston, LTD. vs. Momentum Motor Cars, LTD., d/b/a Momentum Jaguar*, Houston, TX, 1999-2000.  
Provided deposition and hearing testimony.

*Arnold Lincoln Mercury v. Ford Motor Co.*, Detroit, MI, 1999-2000.

*Arata Motor Sales, v. American Honda Motor Co., et al.*, Burlingame, CA, 1999.  
Provided deposition testimony.

*Suzuki Motor Corporation Japan v. Consumers Union of United States, Inc.*, Orange County, CA, 1999-2000.  
Provided deposition testimony.

*Texas Harley-Davidson Dealer Association on behalf of American Speed, Inc., d.b.a., Mancuso Harley-Davidson, et al. v. Harley Davidson, Inc., Motorcycle Division*, Houston, TX, 1999-2000.  
Provided deposition testimony.

*Star Motor Cars v. Mercedes-Benz of North America, Inc.*, Houston, TX, 1999.  
Provided deposition and hearing testimony.

*Ford Dealers of Greater Toronto*, Toronto, ONT, 1998.

*Advantage BMW*, Houston, TX, 1998.

*Berge Ford, Inc., v. Ford Motor Company*, Phoenix, AZ, 1998-1999.

*Nissan Motor Corporation, U.S.A., et al. v. Jim Quinlan Nissan*, Clearwater, FL, 1998-1999.

*Ray Tanner Motors, Inc., d.b.a. Ray Tanner Volvo v. Volvo Cars of North America*, Phoenix, AZ, 1998-1999.

*The Coady Corp. d/b/a 495 Toyota v. Toyota Motor Sales U.S.A.*, Milford, MA, 1998-2003.  
Provided deposition and trial testimony.

*Chapman Scottsdale Autoplex*, Scottsdale, AZ, 1998.

*Nissan Motor Corporation, U.S.A., et al. v. Esserman Nissan*, Miami, FL, 1998-1999.

*Westside-Marerro Jeep-Eagle, Inc. et al. v. Chrysler Corporation et al.*, New Orleans, LA, 1998-1999.  
Provided deposition testimony.

*Selman Chevrolet*, Orange, CA 1998.

*Volkswagen of America, Inc., et al. v. Pompano Imports, Inc., d.b.a. Vista Motor Company*, Pompano Beach, FL, 1998-1999.

Provided deposition and hearing testimony.

*American Honda Motor Co., Inc. v. Clair International, Inc. d.b.a. Clair Honda; Bernardi's Inc., d.b.a. Bernardi Honda; and Weymouth Motor Sales, Inc. d.b.a. Weymouth Honda*, Boston, MA, 1998-1999.

Provided deposition and trial testimony.

*Al Smith Buick Co., Inc., d.b.a. Al Smith Dodge v. Chrysler Corporation, et al.*, Raleigh, NC 1998.

Provided deposition testimony.

*Permian Mack Sales and Service, Inc., v. Broncho Chevrolet Company, et al.*, Odessa, TX, 1998-1999.

*Dispatch Management Services Corp., in Aero Special Delivery, Inc., v. United States of America*, San Francisco, CA, 1999.

*Dave Zinn Motors, Inc., v. NationsBank of Florida*, Miami, FL, 1998-1999.

Provided deposition testimony.

*General Motors Corporation and Bill Heard Chevrolet Corporation - Orlando v. Fred Bondeson Chevrolet*, Orlando, FL, 1998-1999.

*Landmark Chevrolet Corporation v. General Motors Corporation et al*, Houston, TX, 1998-2002.

Provided deposition and hearing testimony.

*General Motors Corporation et al. v. Phil Smith Buick and Ralph Buick*, Broward County, FL, 1998-1999.

Provided deposition testimony.

*Nevada Franchised Automobile Dealers Association*, Las Vegas, NV, 1998.

*Volvo Trucks North America, Inc. et al. v. TruckMax, Incorporated*, Miami, FL, 1998.

*American Honda Motor Co., Inc. v. Bernardi's, Inc. d.b.a. Bernardi Honda and Richard Lundgren, Inc., d.b.a. Lundgren Honda*, Westborough, MA, 1998-1999.

Provided hearing testimony.

*Flannery Ford, Inc.*, Waterford, MI, 1998-1999.

*Central Ford Truck Sales, Inc. v. Ford Motor Company, Inc. et al.*, Lansing, MI, 1998-1999.

*Trans-Box Systems, Inc. v. United States of America*, Oakland, CA, 1998.

*General Motors Corporation et al. v. Coral Oldsmobile-GMC Truck, King Motor Company of South Florida and King Motor Company of Ft. Lauderdale*, 1998.

*Ball Automotive Group v. American Honda Motor Co., Inc., et al.*, National City, CA, 1998.

*Finley Oldsmobile GMC Truck v. General Motors Corporation*, South Beloit, IL, 1998.

*Harvey Lexus of Grand Rapids v. Toyota Motor Sales, U.S.A.*, Grand Rapids, MI, 1998.

*Sierra Motors, Inc. v. American Honda Motor Co., Inc.*, South Lake Tahoe, CA, 1998.

*Astleford Equipment Co., Inc., v. Navistar International Transportation Corp.*, Burnsville, MN, 1998-1999.  
Provided deposition and trial testimony.

*Kenworth of St. Louis, Inc.*, St. Louis, MO, 1998.

*Warranty Corporation*, Mobile, AL, 1998.

*Brighton Ford-Mercury*, Brighton, MI 1997-1998.

*Jack Wolf Pontiac Cadillac GMC Truck v. General Motors Corporation*, Belvidere, IL, 1997-1998.  
Provided deposition and hearing testimony.

*Justus Buick*, West Caldwell, NJ, 1997.

*Nashua Volvo*, Nashua, NH, 1997.

*Selmer Auto Parts, Inc. v. Parts, Inc.*, Selmer, TN, 1997-1998.

*Jensen Ford Lincoln Mercury*, Marshalltown, IA, 1997-1999.

*Laurel Dodge v. Chrysler Motors Corporation*, Laurel, MD, 1997.  
Provided deposition testimony.

*Clawson Honda v. American Honda Motor Company, Inc.*, Fresno, CA 1997-1998.

*Bay Chevrolet*, Norfolk, VA, 1997.

*Jack Ross Motors*, Tempe, AZ, 1997.

*Streeter Imports v. Mercedes-Benz North America*, Reno, NV, 1997.

*KBLB, Inc., d.b.a. San Marcos Chrysler Plymouth Dodge v. Chrysler Motors Corporation*, San Marcos, TX, 1997.

*Republic Industries*, Ft. Lauderdale, FL, 1997-1998.

*Quebedeaux Pontiac*, Tucson, AZ, 1997.

*Person Ford*, La Verne, CA, 1997.

*Austin Chevrolet, Inc., d.b.a. Munday Chevrolet/Geo v. Robbins Chevrolet Company, and General Motors Corporation and Landmark Chevrolet Corporation, Intervenors*, Houston, TX, 1997.

*Arizona Automobile Dealers Association*, Phoenix, AZ, 1997.

*EPL, Inc. et al. v. Edward P. Essey, et al.*, Birmingham, AL, 1997-2000.  
Provided deposition testimony.

*M.C. Far East International, Inc., et al. v. Truck Insurance Exchange, et al.*, Los Angeles, CA, 1997.  
Provided deposition testimony.

*Allied Sales and Service Co., Inc. v. Global Industrial Technologies, Inc. et al.*, Mobile, AL, 1997.  
Provided deposition testimony.

*Southeast Toyota Distributors, Inc., et al. v. Triangle Auto Center, Inc. d.b.a. Toyota of Hollywood and Bella Automotive Group d.b.a. Headquarter Toyota*, Broward County, FL, 1997-1998.  
Provided deposition and hearing testimony.

*NCM Associates, Inc.*, Shawnee Mission, KS, 1997.

*Robert Horvath v. Anderson, Moss, Parks & Sherouse, P.A., et al.*, Miami, FL, 1997.  
Provided deposition and trial testimony.

*Billy Cook, et al. v. Louisiana Automobile Dealers Association, Inc., et al.*, Shreveport, LA, 1996-1999.

*Auto Acquisition, Inc. d.b.a. Dominion Jaguar v. Jaguar Cars, Inc.*, Houston, TX, 1996.

*Fletcher Jones Toyota v. Toyota Motor Sales USA, Inc.*, Las Vegas, NV, 1996-2002.

*Spectronics, Inc., v. Siemens Electromechanical Components, Inc., et al.*, Mobile, AL, 1996-1997.

*Barry S. Lamm, et al. v. Parts, Inc.*, Mobile, AL, 1996-1997.  
Provided deposition testimony.

*Bernard R. Boniface, A. J. Hiers, Neil Huhta and Boniface & Company, Inc. v. Saab Cars USA, Inc.*, Melbourne, FL, 1996-1997.

*Herb Gordon Auto World, Inc. v. Chrysler Motors Corporation*, Silver Spring, MD, 1996-1997.  
Provided deposition testimony.

*Jones-West Ford et al. v. Ford Motor Co.*, Reno, NV, 1996-2002.  
Provided hearing testimony.

*William Clark, Jr. and C & W Auto Parts and Supply Co., Inc., v. CarQuest Corporation, General Parts, Inc., et al.*, Mobile, AL, 1996-1997.  
Provided deposition, trial testimony and post-trial testimony.

*Old Country Toyota v. Toyota Motor Distributors, et al.*, Long Island, NY, 1996-1997.  
Provided deposition testimony.

*Precision Toyota*, Tucson, AZ, 1996.

*Spitzer Dodge, Inc. v. Chrysler Corporation, et al.*, Homestead, FL, 1996.  
Provided deposition and hearing testimony.

*Mazda Motor of America, Inc., et al. v. Stewart Mazda, Delray Mazda and Jupiter Dodge Mazda*, West Palm Beach, FL, 1996.  
Provided deposition and hearing testimony.

*Mazda Motor of America, Inc., et al. v. Ferman Motor Car Company, Inc., d.b.a. Ferman Mazda*, Tampa, FL, 1996.

*Olympic Chevrolet, Inc. v. General Motors Corporation*, Chicago, IL 1996-1997.

*Island Lincoln-Mercury Group v. American Honda Motor Company, Inc.*, Cocoa, FL, 1996.



*Letha Rice v. United States of America*, Washington DC, 1996.

*Bob Mandal Nissan, Inc. v. Pinkerton's Security and Investigation Services, Nissan Motor Corporation, U.S.A., et al.*, Mobile, AL, 1996-1997.

Provided deposition testimony.

*W. W. Wallwork, Inc. v. Ford Motor Company*, Fargo, ND, 1996-1998.

*L. Mitchell Coffee, Jr., et al. v. General Motors Acceptance Corporation*, Eastman, GA, 1996.

Provided deposition testimony.

*General Motors Corporation, et al. v. William Lehman Buick, Inc., Angel Buick and South Motors Buick*, Miami, FL, 1996.

Provided deposition testimony.

*General Motors Corporation, et al. v. Anthony Abraham Chevrolet, Co., Tropical Chevrolet, Inc., Potamkin Chevrolet, Inc., and Grand Prize Chevrolet*, Miami, FL, 1996-1997.

Provided deposition and hearing testimony.

*Management Performance Groups, Inc.*, Atlanta, GA, 1996.

*LeBlang Motors, Ltd. v. Subaru of America, Inc.*, Park Ridge, IL, 1995.

*Crown Automotive Group, Inc.*, Nashville, TN, 1995-1996.

*Deel Ford v. Ford Motor Company*, Miami, FL, 1995-1996.

*A-1 Auto Service d.b.a. A-1 Toyota v. Toyota Motor Distributors*, New Haven, CT, 1995.

Provided hearing testimony.

*Blab T.V. of Mobile, Inc., d.b.a. Bay T.V. v. Comcast Cable Communications, Inc., et al.*, Mobile, AL, 1996-1997.

Provided deposition testimony.

*Maroone Chevrolet*, Miami, FL, 1996-1997.

*Young Chevrolet v. General Motors Corporation*, Layton, UT, 1995-1997.

Provided deposition and trial testimony.

*Colonial Dodge, Inc., et al. v. Chrysler Corporation*, Kensington, MD, 1995-1996.

*Jackie Cooper Lincoln-Mercury*, Oklahoma City, OK, 1995.

*Bob Daniels Buick Co. v. General Motors Corporation*, Columbus, OH 1995-1996.

Provided deposition and hearing testimony.

*Justus Buick v. General Motors Corporation*, West Caldwell, NJ, 1995-1996.

Provided hearing testimony.

*Nives Rizza Ford, Inc. v. Terry's Lincoln-Mercury, Inc., Ford Motor Company, et al.*, Orland Park, IL, 1995-1998.

Provided deposition testimony.

*Prestige Imports, Inc. d.b.a. Prestige Volvo v. Volvo Cars of North America, Inc.*, East Hanover, NJ, 1995.

*A&L Motor Sales v. Nissan Motor Corporation, U.S.A.*, Monroeville, PA, 1995.

*Dwayne Hawkins and Millard G. Ripley v. Ford Motor Company*, Tampa, FL, 1995-1999.  
Provided deposition testimony.

*Schaeffer Automotive Group, Inc. d.b.a. Schaeffer Honda v. American Honda Motor Company, Inc.*, Memphis, TN, 1995-1999.

*State of Nevada v. Fletcher Jones Company*, Las Vegas, NV, 1995.

*Berglund Management Group, Inc. v. First Team, Inc.*, Roanoke, VA, 1995-1998.  
Provided deposition and trial testimony.

*Jim White Agency Company d.b.a. Jim White Nissan v. Nissan Motor Corporation, U.S.A.*, Toledo, OH, 1995-1996.

*Portsmouth Imports, Inc. d.b.a. Portsmouth Mitsubishi v. Mitsubishi Motor Sales of America Inc.* Portsmouth, NH, 1995-1996.  
Provided deposition testimony.

*Col. Frank Borman v. American Honda Motor Company, Inc.*, Sacramento, CA, 1995-1998.

*Crown Auto Dealerships, Inc., d.b.a. Crown Jaguar v. Jaguar Cars, Inc.*, St. Petersburg, FL, 1995.

*Bob Schultz Motors, Inc. v. Kawasaki Motors Corp., U.S.A.*, St. Louis, MO, 1995-2000.  
Provided hearing testimony.

*Rahal Buick, Inc. v. General Motors Corporation*, Dothan, AL, 1995-1997.  
Provided deposition testimony.

*Hall & Fuhs, Inc. v. Volvo GM Heavy Truck Corporation*, Mountainside, NJ, 1995.

*Southern Holdings, Inc., et al. v. Goldin Industries, Inc., et al.*, Mobile, AL, 1994-1996.

*Wallace Nissan, Inc. v. North Palm Beach Nissan, Inc.*, Delray Beach, FL 1994-1997.

*Spitzer Dodge, Inc. v. Chrysler Corporation*, Homestead, FL, 1994-1995.

*Stephen Ford, Inc. v. Ford Motor Company*, Bristol, CT, 1995-1998.  
Provided deposition testimony.

*Lynch Ford v. Ford Motor Company*, Chicago, IL, 1993-1994.

*Appleton v. Sadow*, Newark, NJ, 1991.

*McDonnell-Douglas Corporation v. Tops Appliance City*, Edison, NJ, 1991.  
Provided deposition and trial testimony.

*U.S. Department of Education*, Washington DC, 1991-present.

*New Jersey Health Care Facility Financing Authority*, Trenton, NJ, 1990-1991.

*Jersey Central Power & Light Company*, Morristown, NJ, 1990-1991.

*Devmark v. American BioNuclear, Inc.*, Baltimore, MD, 1989.

*American Banker Bond Buyer*, New York, NY, 1989-present.

*New Jersey Automobile Dealers Association*, Trenton, NJ, 1989, 1992.

*McNally Buick v. General Motors Corporation*, Flint, MI, 1988.

*Justus Buick v. General Motors Corporation*, West Caldwell, NJ, 1988.

*Denco v. Engelhard Corporation*, Woodbridge, NJ, 1988-1989.  
Provided deposition testimony.

*Ed Carney Ford, Inc., Verner-Cadby, Inc., and Jack Trebour Ford*, Parsippany, NJ, 1987.

*Koerner Ford of Syracuse and Courtesy Ford*, Syracuse, NY, 1987.

*NW Ayer, Incorporated*, New York, NY, 1987-1990.

*Capitol Cadillac, Coleman Cadillac, Lindsay Cadillac and Moore Cadillac*, Washington, DC area, 1987-88.

*Ed Rinke Chevrolet Company, Hamilton Chevrolet, Inc., and Savoie Chevrolet, Inc. v. General Motors Corporation and Matthews-Hargreaves Chevrolet, Inc.*, Detroit, MI area, 1986-1988.  
Provided deposition and trial testimony.

*The Partnership for New Jersey*, 1986.

*Toledo Edison*, Toledo, OH, 1986.

*Franklin State Bank v. Country Chevrolet*, Franklin Township, NJ, 1986.

*Ford Dealers Alliance*, Hackensack, NJ, 1985-1986, 1989, 1991, 1992.

*Savannah Electric Power Company*, Savannah, GA, 1985-1987.

*Federal Aviation Administration* (under subcontract to Gellman Research Associates), Washington, DC, 1985-1987.

*Martin Marietta Corporation*, Orlando, FL, and Baltimore, MD, 1985-1987.

*Citibank*, New York, NY, 1985-1986.

*Panhandle Eastern Pipe Line Company*, Kansas City, MO, 1985-1986.

*Tennessee Valley Authority*, Chattanooga, TN, 1985.

*Montclair-Bloomfield Motors, Inc., Verner-Cadby, Inc., Fette Ford and \_\_\_\_\_ Ford v. Ford Motor Company*, East Orange, NJ, 1984-1985.  
Provided hearing testimony.

*American Methyl Corporation and Ocelot Chemical Corporation v. U.S. Environmental Protection Agency*, 1984.

*Gulf Power Company*, Pensacola, FL, 1984.

*San Diego Gas & Electric Company*, San Diego, CA, 1984.

*Stanford University*, Palo Alto, CA, 1983.

*New York State Energy Office*, Albany, NY, 1982.

*U.S. Department of Energy*, Washington, DC, 1980, 1986-1994.

*Emory Ayers Associates*, New York, NY, 1980.

*National Aeronautics and Space Administration, Jet Propulsion Laboratory*, Pasadena, CA, 1979-1980

*U.S. Bureau of Mines*, Gaithersburg, MD, 1978-1979.

*U.S. Environmental Protection Agency*, Cincinnati, OH, Durham, NC, and Washington, DC, 1978-1994.

*Electric Power Research Institute*, Palo Alto, CA, 1977-1984.

*National Science Foundation*, Washington, DC, 1975-1977.

*Fluor Utah Corporation*, San Mateo, CA, 1974.

*Appalachian Regional Commission*, Washington, DC, 1970-1971.

#### PROFESSIONAL AFFILIATIONS AND ACTIVITIES:

- 1976- American Economic Association
- 1981-95 Association of Environmental and Resource Economists
- 1968- Institute of Electrical and Electronic Engineers (Life Member)
- 1990 Referee, *Journal of Environmental Economics and Management*
- 1991-93 Member, West Windsor Township Planning Board

#### AWARDS AND HONORS:

- 1972-74 Sloan Foundation Research Assistantship
- 1972-73 President, Engineering-Economic Systems Department Student Association, Stanford University
- 1970-71 Environmental Research Fellowship
- 1969-70 California State Graduate Fellowship
- 1968-69 President, Tau Beta Pi (engineering honorary), Stanford Chapter
- 1968 Graduation with Honors

#### ARTICLES PUBLISHED:

"Sources of Labor Productivity Variation in the U.S. Surface Coal Mining Industry, 1960-1976," (with L. Rittenberg), The Energy Journal, Vol. 8, No. 1, January 1987, pp. 87-99.

"Model for Economic Assessment of Acid Damage to Building Materials," (with the. Lareau, R. Horst and F. Lipfert), in R. Baboian (ed.), Materials Degradation Caused by Acid Rain, Washington, DC: American Chemical Society, 1986, pp. 397-410.

“A Case Study of Decline in Labor Productivity: Underground Coal Mining Industry, 1960-1976,” (with L. Rittenberg), Quarterly Journal of Business and Economics, Vol. 25, No. 1, Winter 1986, pp. 38-55.

“Econometric Representation of Industry Process Analysis Models: An Application to Forecasting Industrial Electricity Generation,” (with P. Nanda, M. Duff, and D. Cullen), in V. K. Smith (ed.), Advances in Applied Micro-Economics, Greenwich, CT: JAI Press, 1982.

“Recycling in the USA: Vision and Reality,” (with O.W. Albrecht and F.W. Efav), Resources Policy, Vol. 3, September 1981, pp. 188-196.

“Engineering--Economic Models for Design, Analysis, and Optimization of Plant Energy Systems,” Tappi, Vol. 63, No. 9, September 1980, pp. 81-84.

#### SELECTED TECHNICAL REPORTS AUTHORED OR CO-AUTHORED:

Insular Area Energy Vulnerability (3 Vols.), (co-author with others) a report to Congress by the U.S. Department of Energy, 1994.

Insular Area Energy Vulnerability: Puerto Rico and the U.S. Virgin Islands, (co-author with others), a report to the U.S. Department of Energy, 1994.

Guaranteed Student Loan Program Collections Study (3 Vols.), (co-author with others), a report to the U.S. Department of Education, 1994.

IS-60 Organization Study, (co-author with L. Greenberg and N. McCurdey), a report to the U.S. Department of Energy, 1993 (draft).

Valuation of a Portfolio of 9 Percent GSL Loans, (co-author with Graham Lord and Kelly Eastman-Perl) a report to the U.S. Department of Education, 1993.

The Accreditation of Postsecondary Vocational Education: Four Case Studies, (co-author with three others) a report to the U.S. Department of Education, 1993.

Income Contingent Loan (ICL) Program Options Paper, (with Susan Simonelli) a report to the U.S. Department of Education, 1993.

Consumer Impacts of Increased New Vehicle Warranty Compensation, (with J. Bentley), a report to the Ford Dealers Alliance and the New Jersey Automobile Dealers Association, 1992.

State Licensure of Postsecondary Schools: Patterns Across Nine States, (co-author with six others) a report to the U.S. Department of Education, 1992.

Review and Critical Synthesis of the Literature on the Quality of Higher Education. Issue Paper 1: Standards for College Preparation, a report to the U.S. Department of Education, 1992.

Case Studies of Oil Industry Lessons Learned During the Persian Gulf Crisis, (co-authored with various DOE staff) a report to the U.S. Department of Energy, 1992.

The Department of Energy's Emergency Response to the Persian Gulf Crisis: Lessons Learned, (with J. Bentley and various DOE staff) a report by the U.S. Department of Energy, 1991.

Energy Emergency Information Collection and Processing System in Use by the Office of Energy Emergencies,

(with others), a report to the U.S. Department of Energy, 1990.

Evaluation of the JCP&L Electric Heat Conversion Program, (with W. Spitz and J. Bentley), a report to an electric utility, 1990.

Strategic Petroleum Reserve Release Decision Model, (with G. Lord, M. Duff, and M. Toman) a report to the Department of Energy, 1989.

The Strategic Petroleum Reserve (SPR) Release Decision: "Free Rider" Effects and U.S./Allies' Drawdown Strategies (with W. Spitz) a report to the Department of Energy, 1989.

The Impact of Rising Auto Insurance Rates on New Car Sales in New Jersey, (with W. Spitz) a report to the New Jersey Automobile Dealer Assoc., 1989.

Census of Diamond Jewelry Manufacturers in the United States, (with M. Duff and Opinion Research Corp.) a report to a major advertising agency, 1988.

Oil Supply Adequacy and Essential Requirements: Methodology Report, (with M. Duff and W. Spitz) a report to the Department of Energy, 1987.

A Study of the Crisis in the Tort-Liability and Insurance Systems, with Emphasis on the New Jersey Experience, (with J. Bentley and G. Lord), a report to the Partnership for New Jersey, 1986.

Terminal Area Forecast Improvement Program, (with J. Bentley), a report in collaboration with Gellman Research Associates, Inc., to the Federal Aviation Administration, 1986.

Differential Pricing by Automobile Manufacturers: A Study of a Single-Price Scenario, (with J. Bentley), a report to the Ford Dealers Alliance, 1986.

The Market Potential for Energy-Efficient Motors in the TVA Service Area, (with M. Duff and W. Barr), a report to the Tennessee Valley Authority, 1985.

Analytical Procedures for Pricing of Tax-Exempt Securities, (with D. Wise and J. Campbell), a report for a major commercial bank, 1985.

Preliminary Analysis of Power Supply Options at the Fort Howard Paper Company Savannah River Mill, (with M. Duff), a report to the Savannah Electric and Power Company, 1985.

Model City Program for Air Quality Prediction, (with Martin Marietta Environmental Systems), a report to the Environmental Protection Agency, 1985.

Benefit Analysis of National Ambient Air Quality Standards for Sulfur Dioxide (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1984.

Benefit-Cost Analysis of Selected New Source Performance Standards for Particulate Matter (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1984.

Economic Benefits of Reduced Acidic Deposition on Common Building Materials: Methods Assessment (with R. Horst and J. Bentley), a report to the Environmental Protection Agency by Mathtech, Inc., 1984.

Statistical Reanalysis of Evaporative Hydrocarbon Emissions Data from Automobiles using Methanol Fuels, a report for a methanol fuel manufacturer by Mathtech, Inc., 1984.

COGEN3: A Computer Model for Design, Costing, and Economic Optimization of Cogeneration Projects, Vols. I-III, (with M. Duff, W. Price, and A. Davis) a report to the Electric Power Research Institute by Mathtech, Inc., 1983.

Benefits of Reduced Materials Damage Due to Local Reductions in SO<sub>2</sub> Concentrations: A Six State Study (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1983.

Feasibility Analysis of Alternative National Ambient Air Quality Standards for Particulate Matter (with R. Horst and G. Labovich), a report to the Environmental Protection Agency by Mathtech, Inc., 1983.

Benefit Estimates of Alternative Ambient Particulate Matter Standards (with R. Horst and G. Labovich), a report to the Environmental Protection Agency by Mathtech, Inc., 1983.

Health, Soiling and Visibility Benefits of Alternative Mobile Source Diesel Particulate Standards, Vols. 1-3, (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1983.

Historical Benefits of Reductions in Ambient Particulate Matter (with R. Horst and G. Labovich), a report to Public Interest Economics and the Environmental Protection Agency by Mathtech, Inc., 1983.

Benefit and Net Benefit Analysis of Alternative National Ambient Air Quality Standards for Particulate Matter, Vols. 1-5, (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1983.

Estimating the Benefits of Alternative Secondary National Ambient Air Quality Standards for Sulfur Dioxide and Particulates, Vols. 1-6, (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1982.

Selected Key Issues in Benefits Analysis of Air Quality Standards, (with others), a report to the Environmental Protection Agency by Mathtech, Inc., 1982.

Cogeneration Case Studies Using the COGEN2 Model, (with M. Duff), a report to the Electric Power Research Institute by Mathtech, Inc., 1982.

Forecasting In-Plant Electricity Generation by the Industrial Sector, 1975-2000, (with M. Duff, P. Nanda and D.E. Cullen), a report to the Electric Power Research Institute by Mathtech, Inc., 1981.

Final NSPS Recommendation Plan for Benefit-Cost Analysis of New Source Performance Standards, (with M. Duff and R. Horst), a report to the Environmental Protection Agency by Mathtech, Inc., 1981.

The Effect of Air Quality Regulations on Industrial Fuel Choice, (with M. Duff), a report to the Department of Energy by Mathtech, Inc., 1980.

Advanced Cogeneration Technology Economic Optimization Study, (with P. Nanda, W. G. Price and Y. Ansu), a report to the Department of Energy, NASA, and the Jet Propulsion Laboratory by Mathtech, Inc., 1980.

Evaluation of the Impediments to Economical Resource Recovery Facilities for Municipal Solid Waste, (with F. Efav), a report to the Environmental Protection Agency by Mathtech, Inc., 1980.

Analysis of Labor Productivity Decline in the U.S. Bituminous Coal Mining Industry, (with L. Rittenberg), a report to the Department of Energy by Mathtech, Inc., 1979.

An Evaluation of the Science Information Activities of the National Science Foundation, a report to the National Science Foundation by Mathtech, Inc., 1977.

“Socioeconomic and Physioeconomic Factors,” Chapter 7 in Economic System Analysis of Coal Preconversion Technology, a report to the U.S. Office of Coal Research by Fluor Utah, Inc., 1974.

National Growth Policy, staff report with the. Cotton and P. Ingrahm, Appalachian Regional Commission, Washington, D. C., 1972.

The Appalachian Development Highway Program in Perspective, a report to the Appalachian Regional Commission, Washington, D.C., 1971.

PAPERS, SEMINARS AND PRESENTATIONS:

“How Many New Vehicles Should a Dealership Be Able to Sell,” presentation for the Chief Financial Officers Group, Indian Wells, CA, April 25, 2004.

“Demographic Factors and the Retail Automobile Industry,” presentation for the Auto CPA Group, Scottsdale, AZ, October 11, 2002.

“Applying the 1997 Franchise Amendments,” paper presented at the 1997 Franchise Law Seminar of the Arizona Automobile Dealers Association, Phoenix, AZ, May 29, 1997.

“Dealing with Dealer-Manufacturer Conflicts,” (with Joseph F. Roesner) paper presented at the 1997 Franchise Law Seminar of the Arizona Automobile Dealers Association, Phoenix, AZ, May 29, 1997.

“Recent Examples of Dealer-Manufacturer Relations,” (with Joseph F. Roesner) seminar presented for the Western Ford Management Group, Cabo San Lucas, BCS, Mexico, March 19, 1997.

“Comments on Proposed Amendments to the Arizona Motor Vehicle Dealer Statute, S.B. 1309,” testimony before the Senate Commerce Committee, State of Arizona, Phoenix, AZ, February 13, 1997.

“Interpretation of R.L. Polk Registration Data and Related Concepts,” (with Joseph F. Roesner) paper presented at The Buick Top Dealer Roundtable, Annapolis, MD, March 21, 1996.

“Snapback May Be Too Large To Ignore in DSM Evaluations,” (with Michael Roddy and William Spitz) paper presented at the 1993 International Energy Program Evaluation Conference, Chicago, IL, August 24-27, 1993.

“Some Comments on the New Jersey Board of Public Utilities Conservation Incentives Rulemaking,” public testimony on N.J. BPU Docket No. EX90040304, Newark, N.J., December 20, 1990.

“The Benefits of Mobile Source Emissions Reductions in Latin America,” (with R. Horst), invited paper presented at the World Bank seminar on “The Automobile and the Environment,” Washington, DC, February 28, 1990.

“Benefit-Cost Analysis and Environmental Regulations,” (with R. Horst) invited seminar for the World Bank, Washington, DC, August 23, 1989.

“Cogeneration: An Energy Investment for the 1980's” invited Seminar in the Stanford University Executive Seminar Series: “Energy Decisionmaking for Uncertain Times,” June 19-July 1, 1988.

“Regional Forecasting when the National Forecasts are Known,” (with E. Bomberger), presented at the Seventh International Symposium on Forecasting, Boston, MA, May 27-29, 1987.

“Cogeneration: An Energy Investment for the 1980's,” invited seminar in the Stanford University Executive Seminar Series: “Energy Decisionmaking in the 80's,” Palo Alto, California, July 7-19, 1985.



“COGEN3: A Computer System for Design, Costing, and Economic Optimization of Cogeneration Projects,” in A. Faruqui and K. Yamaji (eds.), American and Japanese Perspectives on Energy Analysis Research, EA-4067, proceedings of a workshop sponsored by the Electric Power Research Institute, June 1985.

“Economic Damages to Building Materials Exposed to Acid Deposition,” (with the. Lareau, R. Horst, and F. Lipfert) presented at American Chemical Society Meeting on Degradation of Materials due to Acid Rain, Arlington, Virginia, June 17-19, 1985.

“Innovative Electro-Technologies: Implications for the Electric Utility Industry,” paper presented at the 14th Power Industry Computer Application Conference, San Francisco, California, May 6-10, 1985.

“Valuing Changes in Morbidity: WTP versus COI Measures,” by Robert D. Rowe and Lauraine G. Chestnut, paper discussed at the Annual Meeting of the Allied Social Sciences Associations, Dallas, Texas, December 27-30, 1984.

“Benefits of Reduced Acidic Deposition: A Methods Assessment,” (with J. Bentley and R. Horst), paper presented at the Annual Meeting of the Atlantic Economic Association, Montreal, Canada, November, 1984.

“Cogeneration: An Energy Investment for the 1980's,” invited seminar in the Stanford University Executive Seminar Series: “Energy Decisionmaking in the 80's,” Palo Alto, California, July 8-20, 1984.

“The Economic Benefits of Alternative National Ambient Air Quality Standards for Particulate Matter,” (with others), paper presented at the 77th Annual Meeting of the Air Pollution Control Association, San Francisco, California, June 24-29, 1984.

“Quantitative Information in the NAAQS Review Process: A Summary of a Benefit-Cost Analysis for Particulate Matter,” (with others), paper presented at the 77th Annual Meeting of the Air Pollution Control Association, San Francisco, California, June 24-29, 1984.

“COGEN3: Computer Software for Design, Costing, and Economic Optimization of Cogeneration Projects,” paper presented at the Association of Energy Engineers Cogeneration Seminar, Houston, Texas, May 15-16, 1984.

“COGEN3: A Computer System for Design, Costing, and Economic Optimization of Cogeneration Projects,” paper presented at the 1984 Industrial Energy Conservation Technology Conference, Houston, Texas, April 16-19, 1984.

“Methods for Estimating the Economic Benefits of Reduced Acidic Deposition on Common Building Materials” (with R. Horst), paper presented at the Annual Meeting of the Allied Social Science Associations, San Francisco, California, December 28-30, 1983.

“Capabilities and Applications of the COGEN3 Model,” invited presentation at the EPRI Workshop on Cogeneration Models, Atlanta, Georgia, November 1, 1983.

“Analysis of an Industrial Energy Park Using COGEN2,” (with M.C. Duff), paper presented at the Third International Conference on Cogeneration, Houston, Texas, October 13-14, 1983.

“Cogeneration: An Energy Investment for the 1980's,” invited seminar in the Stanford University Executive Seminar Series: “Energy Investments in the 80's,” Palo Alto, California, July 17-29, 1983.

“A Comparison of Alternative Approaches to Benefits Analysis of Air Quality Standards,” (with R.L. Horst and K.M. Brennan), paper presented at the 76th Annual Meeting of the Air Pollution Control Association, Atlanta, Georgia, June 19-24, 1983.

“Economic Considerations in Utility Ownership of Cogeneration Systems,” (with M. Duff), paper presented at the Second International Conference on Cogeneration, Los Angeles, California, October 21-22, 1982.

“Overview of the COGEN2 Model,” invited presentation at the EPRI Workshop on Cogeneration Models, Oakland, California, July 29, 1982.

“Overview of the Inplant Generation Forecasting Model (IPGFM),” invited presentation at the EPRI Workshop on Cogeneration Models, Oakland, California, July 30, 1982.

“Economic Benefits of Alternative National Ambient Air Quality Standards for Sulfur Dioxide and Particulates,” presentation at EPA Public Meeting, Raleigh, North Carolina, July 27-28, 1981.

“Forecasting Inplant Electricity Generation by the Industrial Sector, 1975-2000,” invited presentation at the EPRI workshop on electricity demand forecasting, Palo Alto, California, October 2, 1980.

“Use of Engineering-Economic Models for Design, Analysis and Optimization of Plant Energy Systems,” a paper presented at the 1980 Engineering Conference of the Technical Association of the Pulp and Paper Industry (TAPPI), Washington, D.C., September 11, 1980.

“Use of Engineering-Economic Models in Evaluating Cogeneration Opportunities,” (with P. Nanda, D. Cullen and M. Duff), invited paper presented at the EPRI Workshop on Cogeneration, San Antonio, Texas, April 1-4, 1979.

“A Forecasting Model of Electricity Generation by the Industrial Sector,” (with P. Nanda and D. Cullen), presented at the ORSA/TIMS Joint National Meeting, Los Angeles, November 13-15, 1978.

“Economic Modeling of Electricity Generation by the Industrial Sector,” invited paper presented at a conference of the National Consumer Research Institute, Newport Beach, California, May 5, 1978.

“Principal Findings of an Evaluation of the National Science Foundation's Science Information Activities,” invited presentation to the NSF Science Information Activities Task Force, April 25, 1977.

“Defining the Institutional Requirements for Managing Regional Growth,” a paper read at the Sixth Hawaii International Conference on System Sciences, University of Hawaii, January 9-11, 1973.

#### MISCELLANEOUS:

“Correctly Accounting for Externalities.” letter to the editor of Public Utilities Fortnightly, Vol. 127. No.12, June 15, 1991, pp. 8-9.

Economic Effects of Environmental Factors on Industrial Firms: Benefits from Regulating Air Pollution, Ph.D. Dissertation submitted to Stanford University, August 1983.

Project Independence Blueprint, hearings organized for the Subcommittee on the Environment, House Committee on Interior and Insular Affairs, November 21 and 25, 1974, Serial No. 93-70. U.S. Government Printing Office, 1975 (organizer of hearings).

**Class Vehicles and Estimate of Class Size**

<b>Defect</b>	<b>Make and Model</b>	<b>Years</b>	<b>No. of Vehicles</b>	<b>Transport Canada Recall No.</b>
Dalian Ignition Switch	Buick Allure	2005 – 2009	186,013	2014246
	Buick Lucerne	2006 – 2011		
	Cadillac Deville	2000 – 2005		
	Cadillac DTS	2006 – 2011		
	Chevrolet Impala	2006 – 2013		
	Chevrolet Monte Carlo	2006 – 2007		
Delphi Ignition Switch	Cadillac CTS	2003 – 2014	30,927	2014273
	Cadillac SRX	2004 – 2006	367,972	2014126
	Chevrolet Cobalt	2005 – 2010		
	Pontiac G5	2007 – 2010		
	Pontiac Pursuit	2005 – 2006		
	Pontiac Solstice	2006 – 2010		
	Saturn Ion	2003 – 2007		
	Saturn Sky	2007 – 2009		
Strattec Ignition Switch	Chevrolet HHR	2006 – 2011		
	Chevrolet Camaro	2010 – 2014		
Stoneridge Ignition Switch	Chevrolet Impala	2000 – 2005	641,121	2014284
	Chevrolet Malibu	1997 – 2005		
	Chevrolet Monte Carlo	2000 – 2005		
	Oldsmobile Alero	1999 – 2004		
	Oldsmobile Intrigue	1998 – 2002		
	Pontiac Grand Am	1999 – 2005		
	Pontiac Grand Prix	2004 – 2008		
<b>TOTAL</b>			<b>1,243,769</b>	

NEW CARS   USED CARS   NEW CAR BUYING GUIDE

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**2017 Chevrolet Cruze** [View 2016 Model](#)

### Select Your Preferences

**a. Pick a Style**

Sedan LS Manual

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**b. Choose Color**

EXTERIOR COLOR

Silver Ice Metallic [Edit](#)

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**c. Select Options**

Options \$0 [Edit](#)

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**d. Choose Incentives**


Incentives \$500 [Edit](#)

### TrueCar Estimate

**\$17,930** An Estimated Savings Guarantee of \$1,470 (7.58% off MSRP of \$19,400)

**TRUECAR ESTIMATE INCLUDES**

\$500 Consumer Incentives  
[See Incentives](#)



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Configured MSRP:	\$19,400
Estimated Savings Guarantee:	\$1,470
<b>TrueCar Estimate:</b>	<b>\$17,930</b>
Monthly Payment:	\$290
<small>Based on 2.99% APR for 60 Months with \$1,793 down</small>	

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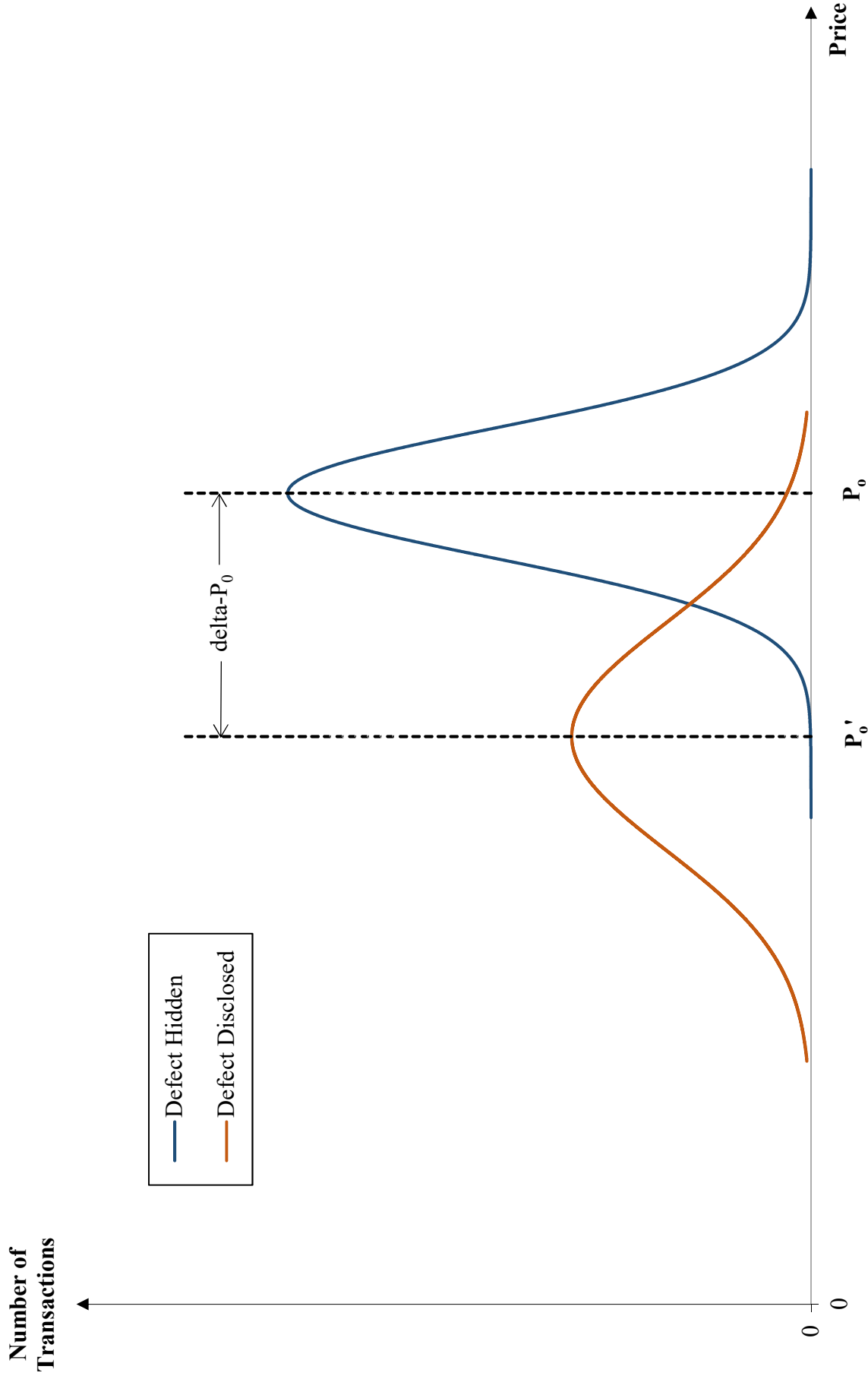


POWERED BY **TRUECar**

**Compare vs. MSRP for the 2017 Chevrolet Cruze near Tucson, AZ**

	MSRP	Factory Invoice	TrueCar Estimate
Base	\$18,525	\$17,784	\$17,184
Options	+ \$0	+ \$0	+ \$0
Incentives	n/a	n/a	- \$500
Regional Ad Fees	+ \$0	+ \$371	+ \$371
Destination Fees	+ \$875	+ \$875	+ \$875
<b>Total</b>	<b>\$19,400</b>	<b>\$19,030</b>	<b>\$17,930</b>

# Hypothetical Distribution of Purchase Prices for a Particular Vehicle at a Particular Time



F:\GMCA:HYPERICEDIST.XLSX:CPPD.2.1:HHHTHO

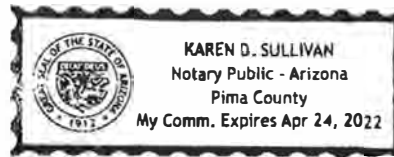
SOURCE: The Fontana Group, Inc.

This is Exhibit "B" referred to in the Affidavit of Edward M. Stockton sworn before me this 16th day of June, 2020.



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*A Notary Public, etc.*



Court File No.: CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

BETWEEN:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA  
LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ACKNOWLEDGEMENT OF EXPERT'S DUTY**

1. My name is Edward M. Stockton. I live in the City of Tucson, in the State of Arizona of the United States of America.
2. I have been engaged by or on behalf of Rochon Genova LLP to provide evidence in relation to the above-named court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
  - (a) To provide opinion evidence that is fair, objective and non-partisan;
  - (b) To provide opinion evidence that is related only to matters that are within my area of expertise; and
  - (c) To provide such additional assistance as the court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date June 16, 2020

*Edward m. Stockton*

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**EDWARD M. STOCKTON**



**SUPERIOR COURT**

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No: 500-06-000687-141 / 500-06-000729-158

DATE: NOVEMBER 16, 2017

---

**BY THE HONOURABLE MARK G. PEACOCK, J.S.C.**

---

**MICHAEL GAGNON**  
Applicant

v.  
**GENERAL MOTORS OF CANADA**

**-and-**

**GENERAL MOTORS COMPANY**  
Solidarily, the Respondents

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JUDGMENT CONTINUING SUSPENSION OF APPLICATIONS FOR CLASS ACTION  
AUTHORIZATIONS

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[1] In its October 15, 2017 minutes of a case management telephone conference, the Court raised the issue of the continuing stay of the power-steering aspect of the Quebec class action authorization proceedings. On October 13, 2016, in order to focus attention on and advance the companion Ontario proceedings relating to alleged ignition switch defects, *Baker v. General Motors et al* (Ontario Court action no. CV-14502023-00CP), Mr. Justice Paul Perell of the Ontario Superior Court had stayed the alleged power-

500-06-000687-141 / 500-06-000729-158

PAGE: 2

steering defect proceedings in Ontario taken in *Académie Sainte-Cécile International School et al v. General Motors of Canada et al* (CV-14-20629-CP).

[2] This Court was provided with a letter dated September 22, 2017 from Mr. Joel P. Rochon of the Toronto law firm, Rochon Genova, who are designated class counsel in the *Baker* proceedings, which involve a national class.

[3] In its original judgment of March 8, 2016 suspending the present proceedings, the Court said at paragraph 29:

**[29] SUSPENDS the present proceedings in C.S.M.: 500-06-000687-141 and 500-06-00729-158, and REQUIRES counsel for the Parties to: (a) re-present themselves at a date to be fixed by the Court after four months from the present judgment and (i) to apprise the Court of the status of the Ontario actions and the American proceedings and thereafter at 4 month intervals; and (ii) whenever they need to advise the Court of any important development in the Ontario actions or American proceedings;**

[4] Periodic interim judgments of this Court will thereby keep potential Quebec class members informed of developments in this pan North American litigation. The present judgment follows this up. For the purposes of keeping this Court apprised, Plaintiff's counsel has provided additional information to the Court on both the Ontario and the U.S. proceedings through attorney Rochon.

[5] In compliance with *CCP* art. 19, this Court must ensure that suspending the two Quebec proceedings may have potential positive effects on those proceedings, either by way of: (a) resolving complex factual issues; (b) allowing stipulations to be filed which will save valuable court time; or (c) by providing for full or partial settlements, which may have application to the Quebec proceedings, including allowing Quebec class members to benefit as part of a national class in a "foreign" jurisdiction, such as Ontario and the United States in the present case.

[6] Applicant's counsel has provided a series of tables attached *en liasse* as Tables A-1 through A-5 which show whether the same make, model and year for the vehicles are involved in the various proceedings in Quebec, Ontario, and the United States.

[7] Those tables - as regards the Quebec ignition switch claim - show that the Pontiac Pursuit (2005-2006) is not part of the United States ignition switch claim but is part of the Ontario ignition switch claim. Conversely, the Chevrolet Impala (2000-2005) and (2014) that are found in the Quebec ignition switch proceedings are absent from the Ontario ignition switch claim but are part of in the United States ignition switch claim.

[8] All of the vehicles in the Quebec power steering claim are found either in the Ontario power steering claim or the United States power steering claim.

[9] As noted, the Ontario power steering claim has been suspended while the Ontario ignition switch claim proceeds. The Court understands this was done in Ontario to determine if resolution of the ignition switch claim might not also resolve the power steering claim.

[10] The Court appends as Schedule A to this judgment Mr. Rochon's letter of September 22, 2017, with enclosures which updates the status of the United States proceedings, as well, and confirms that a motion to enforce a settlement agreement is presently before the American courts where this alleged agreement covers both ignition switch claims and "non-ignition switch" claims, including power steering claims.

[11] For clarity, the Court underscores that potential Quebec class members are not part of the US proceedings, but they are part of the Ontario proceedings, which involve a national class.

[12] As a result of a telephone conference with all counsel on November 6, 2017, it was agreed that Mr. Rochon will update this Court through short reports as contemplated by the original March 8, 2016 judgment of this Court. Such reports will be submitted through Applicant's counsel.

[13] All vehicles involved in the two Quebec applications are implicated in the cases in Ontario and the United States. There is appropriate forward progress in both jurisdictions to warrant the continued suspension of both Quebec applications.

#### **WHEREFORE, THE COURT:**

[14] **SUSPENDS** the present proceedings in C.S.M.: 500-06-000687-141 and 500-06-00729-158, and **REQUIRES** counsel for the Parties to: (a) re-present themselves at a date to be fixed by the Court after four months from the present judgment and (i) to apprise the Court of the status of the Ontario actions and the American proceedings and thereafter at 4 month intervals; and (ii) whenever they need to advise the Court of any important development in the Ontario actions or American proceedings; and

[15] **TAKES ACT** of the undertaking by the Plaintiff through the agency of Mr. Rochon to provide short status reports every 4 months (or sooner as required) on the following dates: Thursday, March 1, 2018; Monday, July 2, 2018; and Thursday, November 1, 2019 regarding the status of the Ontario and the U.S. proceedings;

[16] **ALL WITH LEGAL COSTS TO FOLLOW.**

500-06-000687-141 / 500-06-000729-158

PAGE: 4



MARK G. PEACOCK, J.S.C.

*Me. Erik Lowe*  
MERCHANT LAW GROUP  
Attorneys for the Petitioner

*Me. Robert E. Charbonneau*  
BORDEN LADNER GERVAIS  
Attorneys for the Respondents

Management Conference date: November 6, 2017

1 – Models Covered by *Gagnon* Power Steering and Ignition Switch Claims

CAR MODELS	GAGNON POWER STEERING CLAIM	GAGNON IGNITION SWITCH CLAIM
CHEVROLET COBALT (2005-2009)		✓
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2006-2009)		✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET HHR (2011)		✓
CHEVROLET IMPALA (2000-2014)		✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	
CHEVROLET MALIBU MAXX (2004- 2006)	✓	
PONTIAC G5 (2007-2010)		✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	
PONTIAC PURSUIT (2005-2006)		✓
PONTIAC SOLSTICE (2006-2010)		✓
SATURN AURA (2008-2009)	✓	
SATURN ION (2003)		✓
SATURN ION (2004-2007)	✓	✓
SATURN SKY (2007-2010)		✓

TABLE A-2

2 – Models Covered by *Gagnon* Power Steering Claim and Ontario Power Steering Claim

CAR MODELS	GAGNON POWER STEERING CLAIM	ONTARIO POWER STEERING CLAIM
CHEVROLET COBALT (2005-2009)		✓
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	✓
CHEVROLET MALIBU MAXX (2004- 2006)	✓	✓
PONTIAC G5 (2007-2010)		✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	✓
PONTIAC PURSUIT (2005-2006)		✓
SATURN AURA (2008-2009)	✓	✓
SATURN ION (2004-2007)	✓	✓

3 – Models Covered by the *Gagnon* Ignition Switch Claim and Ontario Ignition Switch Claim

CAR MODELS	GAGNON IGNITION SWITCH CLAIM	ONTARIO IGNITION SWITCH CLAIM
BUICK ALLURE (2005-2009)		✓
BUICK LACROSSE (2005-2009)		✓
BUICK LUCERNE (2006-2011)		✓
CADILLAC CTS (2003-2014)		✓
CADILLAC DEVILLE (2000-2005)		✓
CADILLAC DTS (2006-2011)		✓
CADILLAC SRX (2004-2006)		✓
CHEVROLET CAMARO (2010-2014)		✓
CHEVROLET COBALT (2005-2010)	✓	✓
CHEVROLET HHR (2006-2011)	✓	✓
CHEVROLET IMPALA (2000-2005)	✓	
CHEVROLET IMPALA (2006-2013)	✓	✓
CHEVROLET IMPALA (2014)	✓	
CHEVROLET MALIBU (1997-2005)		✓
CHEVROLET MONTE CARLO (2000-2005)		✓
CHEVROLET MONTE CARLO (2006-2007)		✓
OLDSMOBILE ALERO (1999-2004)		✓
OLDSMOBILE INTRIGUE (1998-2002)		✓
PONTIAC PURSUIT (2005-2006)	✓	✓
PONTIAC G5 (2007-2010)	✓	✓
PONTIAC GRAND AM (1999-2005)		✓
PONTIAC GRAND PRIX (2004-2008)		✓
SATURN ION (2003-2007)	✓	✓
SATURN SKY (2006)		✓
SATURN SKY (2007-2010)	✓	✓

## TABLE A-4

4 – Models Covered by the *Gagnon* Power Steering Claim and U.S. Power Steering Claim

CAR MODELS	GAGNON POWER STEERING CLAIM	U.S. POWER STEERING CLAIM
CHEVROLET COBALT (2010)	✓	✓
CHEVROLET HHR (2009-2010)	✓	✓
CHEVROLET MALIBU (2004-2006; 2008-2009)	✓	✓
CHEVROLET MALIBU MAXX (2004- 2006)	✓	✓
PONTIAC G6 (2005-2006; 2008-2009)	✓	✓
SATURN AURA (2008-2009)	✓	✓
SATURN ION (2004-2007)	✓	✓



# TABLE A-5

0971

## 5 – Models Covered by the *Gagnon* Ignition Switch Claim and the U.S. Ignition Switch Claim

CAR MODELS	GAGNON IGNITION SWITCH CLAIM	U.S. IGNITION SWITCH CLAIM
BUICK LACROSSE (2005-2009)		✓
BUICK LUCERNE (2006-2011)		✓
CADILLAC CTS (2003-2014)		✓
CADILLAC SRX (2004-2006)		✓
CADILLAC DEVILLE (2000-2005)		✓
CADILLAC DTS (2006-2011)		✓
CHEVROLET CAMARO (2010-2014)		✓
CHEVROLET COBALT (2005-2010)	✓	✓
CHEVROLET HHR (2006-2011)	✓	✓
CHEVROLET IMPALA (2000-2014)	✓	✓
CHEVROLET MALIBU (1997-2005)		✓
CHEVROLET MONTE CARLO (2000-2008)		✓
OLDSMOBILE ALERO (1999-2004)		✓
OLDSMOBILE INTRIGUE (1998-2002)		✓
PONTIAC G5 (2007-2010)	✓	✓
PONTIAC GRAND AM (2000-2005)		✓
PONTIAC GRAND PRIX (2004-2008)		✓
PONTIAC PURSUIT (2005-2006)	✓	
PONTIAC SOLSTICE (2006-2010)	✓	✓
SATURN ION (2003-2007)	✓	✓
SATURN SKY (2007-2010)	✓	✓

ROCHON | GENOVA<sup>LLP</sup>  
BARRISTERS • AVOCATS*of Counsel*FRANK G. FELKAI, Q.C. (1942-2016)  
ALLAN C. HUTCHINSONin association with  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
SAN FRANCISCO | NEW YORK | NASHVILLE

September 22, 2017

VIA EMAIL

The Honourable Mr. Justice Peacock  
Superior Court of Québec  
1, rue Notre-Dame Est  
Montréal, Québec  
H2Y 1B6

Dear Justice Peacock:

**Re: *Baker et al. v. General Motors LLC et al.* Court File No. CV-14-502023-00CP**

We are writing in response to Your Honour's letter of September 12, 2017 to address your concerns in relation to maintaining a stay of the *Gagnon* power steering action. Before providing our rationale for our position, I would like to express my sincerest apologies for the inadvertent inclusion of a U.S. criminal decision as an appendix to the letter. That decision has no application to the matter before Your Honour.

We believe that maintaining the stay of the power steering action in Quebec is consistent with the streamlined approach to the prosecution of the claims. First, it must be borne in mind that the procedural rights of the class members in the power steering actions have been protected through the issuance of claims in Ontario and Quebec. The stay of the power steering action in Quebec is therefore a temporary measure that does not affect the substantive rights of the class members. Rather, it aims to ensure consistency in the litigation of the related claims across Canada, in a context where Quebec and Ontario counsel are working collaboratively.

Second, in our view, maintaining the stay of the Quebec power steering action promotes the most efficient and expeditious resolution of both the ignition switch and the power steering actions in Canada. In this respect, we will be proceeding with a motion summary judgment in the *Baker* ignition switch action, which will rely in part on admissions made by GM executives in the United States. In preparation for this motion, we will be delivering a substantial Request to Admit based on admissions made by the CEO of GM at various U.S. hearings. It is our view that this focused approach will expedite the resolution of the overarching issues of GM's liability and Old GM's bankruptcy which affect both actions.

Further, given the partial overlap between the subject vehicles in the two actions, we believe that the continuation of the stay of the power steering action in Quebec and Ontario would ensure efficiency and serves to avoid unnecessary expenditure of time and resources. Assuming that the plaintiffs are successful on their summary judgment motion, the stay of the power steering

actions could be lifted in both Ontario and Quebec to enable the power steering claims to proceed in tandem with the ignition switch actions.

This approach is consistent with the approach adopted in the U.S. in the context of the *U.S. M.D.L.* and Bankruptcy Proceedings. Shortly following delivery of our letter of September 6, 2017, the plaintiffs in the U.S. proceedings filed a motion to enforce a settlement agreement reached with the Motors Liquidation Company GUC Trust for economic loss claims. While the United States Bankruptcy Court (Southern District of New York) has yet to render a decision on this motion, it is clear from the plaintiffs' submissions, filed on September 11, 2017 (highlighted excerpts enclosed as Appendix A), that the proposed settlement involves both the ignition switch and the non-ignition switch claims, including power steering claims. Therefore, while the ignition switch and non-ignition switch cases initially proceeded separately in the U.S., it would appear that the economic loss claims relating to both actions were potentially resolved in the bankruptcy context at the same time.<sup>1</sup>

Given that this recent document most accurately reflects the status of the U.S. MDL, we will not burden Your Honour with a discussion of the relevance of the more dated documents. However, we would be pleased to provide those highlighted excerpts along with an explanation of their earlier relevance if you believe that such information would be of assistance.

We would be pleased to discuss this further on a short call at Your Honour's convenience.

Respectfully,



Joel P. Rochon

cc. Evatt Merchant, Erik Lowe, Roch Dupont (*Merchant Law Group LLP*)  
Cheryl Woodin, Robert Charbonneau (*Borden Ladner Gervais LLP*)  
Robert Bell (*Lerners LLP*)

Enc.

---

<sup>1</sup> Your Honour requested that we explain the significance of the U.S. documents enclosed our letter of September 6, 30

APPENDIX A

**OBJECTION DEADLINE: TO BE DETERMINED  
HEARING DATE AND TIME: TO BE DETERMINED**

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

-----X		
	:	
In re:	:	Chapter 11
MOTORS LIQUIDATION COMPANY, et al.,	:	Case No.: 09-50026 (MG)
f/k/a General Motors Corp., et al.,	:	
	:	
Debtors.	:	(Jointly Administered)
-----X		

**MOTION TO ENFORCE THE SETTLEMENT AGREEMENT  
BY AND AMONG THE SIGNATORY PLAINTIFFS AND THE GUC TRUST**

The Ignition Switch Plaintiffs,<sup>1</sup> certain Non-Ignition Switch Plaintiffs,<sup>2</sup> and certain Pre-Closing Accident Plaintiffs<sup>3</sup> (collectively, the "Signatory Plaintiffs") hereby submit this *Motion to Enforce the Settlement Agreement By and Among the Signatory Plaintiffs and the GUC Trust* (the "Motion").<sup>4</sup> In support of the Motion, the Signatory Plaintiffs rely on the *Declaration of Edward S. Weisfelner in Support of the Motion to Enforce the Settlement Agreement By and Among the Signatory Plaintiffs and the GUC Trust* filed contemporaneously herewith (the "Decl."). In further support of this Motion, the Signatory Plaintiffs respectfully state as follows:

### INTRODUCTION

1. The Signatory Plaintiffs and the GUC Trust<sup>5</sup> dedicated significant time, care and resources negotiating, drafting, and ultimately finalizing a settlement agreement (the "Settlement") between them.
2. The Settlement is a fair and efficient resolution of complex and protracted litigation that has engendered years of uncertainty and risk for a number of stakeholders, and illustrates exactly why there is a strong judicial policy in favor of settlements.
3. Notwithstanding the beneficial and final nature of the Settlement, after a brief, clandestine meeting with New GM, the GUC Trust sought to revoke the Settlement mere hours

<sup>1</sup> The term "Ignition Switch Plaintiffs" shall mean those plaintiffs asserting economic loss claims or persons suffering economic losses who, as of July 10, 2009, owned or leased a vehicle with an ignition switch defect included in Recall No. 14V-047 the "Ignition Switch Defect").

<sup>2</sup> The term "Non-Ignition Switch Plaintiffs" shall mean those plaintiffs asserting economic loss claims or persons suffering economic losses who, as of July 10, 2009, owned or leased a vehicle with defects in ignition switches, side airbags or power steering included in Recall Nos. 14V-355, 14V-394, 14V-400, 14V-346 and 14V-340, 14V-118 and 14V-153.

<sup>3</sup> The term "Pre-Closing Accident Plaintiffs" shall mean those plaintiffs asserting personal injury or wrongful death claims or persons who suffered a personal injury or wrongful death arising from an accident involving an Old GM vehicle that occurred prior to the closing of the Section 363 Sale. Collectively, the Ignition Switch Plaintiffs, Non-Ignition Switch Plaintiffs and Pre-Closing Accident Plaintiffs are the "Plaintiffs."

<sup>4</sup> Except where otherwise indicated, references to "ECF No. \_" are to docket entries in the Bankruptcy Court proceedings: *In re Motors Liquidation Co.*, Bankr. Case No. 09-50026 (MG).

<sup>5</sup> The term "GUC Trust" refers to the Motors Liquidation Company GUC Trust.



16. With the full knowledge and consent of the GUC Trust, on August 9, 2017, bankruptcy counsel for the Ignition Switch Plaintiffs and Non-Ignition Switch Plaintiffs and counsel for the holders of approximately 65% of the GUC Trust Units outstanding (the "Participating Unitholders") called New GM's counsel to inform New GM of the plan to present the Settlement to this Court and that they were seeking a Claims Estimate Order, and determine New GM's availability for such a conference. *See* Decl. ¶ 7. By August 14, 2017, the parties had secured a conference with this Court for August 17, 2017. *See id.*

17. In response to the MDL Court's request for a report on settlement activity as a regular item on the Status Conference agenda, on August 11, 2017, Steve Berman, counsel for certain Signatory Plaintiffs, informed Judge Furman during a status conference in the MDL that "we plan on presenting papers in the bankruptcy court next week, perhaps as early as Tuesday, that would ask the bankruptcy court to issue a claims estimation order pursuant to the sale agreement." Decl. Ex. C at 37:13-17. He further stated, "we're going to ask the bankruptcy court to issue that order which would require GM to put up stock that's worth roughly a little over \$1,000,000,000," and "I wanted to give the court a heads-up that there will be some new facts on the table next week." *Id.* at 37:25-39:1.

18. On August 11, 2017, Mr. Berman's statements, and New GM's response to those statements, were widely reported in the news media as evidence that the Signatory Plaintiffs had reached a settlement with the GUC Trust. Bloomberg, for example, reported that:

The settlement between the plaintiffs and the trust for Old GM is due to be signed Aug. 15, attorney Steve Berman said in a phone call. The deal will resolve hundreds of personal-injury cases stemming from GM's faulty ignition switches, as well as a class-action suit over millions of vehicles that allegedly lost value due to a series of recalls in 2014, he said.<sup>11</sup>

<sup>11</sup> Erik Larson, GM Accuses Bankruptcy Trust of Secret \$1 Billion Stock Plot, BLOOMBERG, <https://www.bloomberg.com/news/articles/2017-08-11/old-gm-settlement-plan-sets-up-court-fight-with-successor> (Aug. 11, 2017) (last viewed on Sept. 1, 2017); *see also* Brenda Pierson, GM Blasts \$1 Billion Deal Between

GM estate. Although the Signatory Plaintiffs have not yet had the opportunity, and do not have the information, to analyze any New GM proposal to the GUC Trust, it appears doubtful that this proposal is permissible, to say nothing of whether it can even be described as a real compromise of a dispute or settlement within the ambit of Bankruptcy Rule 9019, even if cloaked as a “forbearance” agreement. Rather than alleviating uncertainty, New GM is incentivizing—in fact *ensuring*—its continuation, as well as additional litigation, such as potential claims of tortious interference against New GM.

### **RELIEF REQUESTED**

32. By this Motion, the Parties respectfully request that this Court enter an order, substantially in the form attached hereto as Exhibit A, enforcing the Settlement Agreement.

### **ARGUMENT**

33. The Signatory Plaintiffs seek an order from the Court enforcing the Settlement under the Court’s inherent authority to enforce a settlement in a case pending before it. *See Meetings & Expositions, Inc. v. Tandy Corp.*, 490 F.2d 714, 717 (2d Cir. 1974); *Shabtai v. Honeywell, Inc.*, No. 94 Civ. 0524 (KMW) (RLE), 1998 WL 823617, at \*1 (S.D.N.Y. Nov. 25, 1998). The Court should exercise this authority to enforce the Settlement and order the GUC Trust to comply with its terms. As set forth in further detail below, all of the factors that courts consider to determine whether a settlement is enforceable under New York law weigh in favor of enforceability and there is no basis to invalidate the Settlement.

#### **I. The Settlement Is Enforceable.**

34. The enforceability of the Settlement is governed by New York law. *See* Decl. Ex. H § 3.16 (providing for application of New York law).<sup>17</sup> The intent of the parties determines

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<sup>17</sup> A small line of cases applies federal common law to the question of settlement enforceability under some circumstances involving federal claims, typically in federal law civil rights cases. Those are inapposite and, in any

where the terms of the settlement were set forth and subsequent letters acknowledged the settlement); *Wronka v. GEM Cmty. Mgmt.*, 854 N.Y.S.2d 474, 477 (N.Y. App. Div. 2008) (exchange of correspondence between counsel was sufficient to “constitute [an] enforceable stipulation”).

41. Overall, “[t]he *only* essential prerequisite for a valid settlement agreement is that the parties assent to the terms and conditions of the settlement, and . . . intend to be bound by it.” *Delyanis*, 465 F. Supp. 2d at 174. Nonetheless, the other factors elucidated by the *Winston* court provide additional support for enforcing the Settlement.

**B. The Parties Reached Agreement On All Material Terms And Conditions.**

42. There is no colorable dispute that the Signatory Plaintiffs and the GUC Trust agreed to all material terms and conditions, and, in fact, even all non-material dotting of i’s and crossing of t’s. The Settlement was done. Thus, this *Winston* factor weighs heavily in favor of enforcing the Agreement. See *The Guardian Life Ins. Co. of Am. v. Calkins*, No. 12 Civ. 8863 (JGK), 2014 WL 61475, at \*2 (S.D.N.Y. Jan. 6, 2014) (holding that this factor weighed in favor of enforcement where the settlement terms had been reduced to writing and “[a]ll that remained to be done was for the parties to sign the documents”); *Conway v. Brooklyn Union Gas Co.*, 236 F. Supp. 2d 241, 251 (E.D.N.Y. 2002) (recommending enforcement of settlement agreement where “there was agreement to each term of the settlement and . . . the parties recognized there were no additional terms remaining to be negotiated”).

43. The material terms entailed Plaintiffs’ full release of claims in exchange for the GUC Trust’s (i) payment of the \$15 million Settlement Amount; (ii) payment of notice costs up to \$6 million; and (iii) agreement to support entry of a Claims Estimate Order that would trigger New GM’s obligation to issue the maximum amount of Adjustment Shares.



44. The parties did not reach these material terms lightly or hastily. For example, during negotiations over the Claims Estimate Order, the Signatory Plaintiffs provided to the GUC Trust extensive expert analyses of claims values and proffers of evidence describing in detail the viability of the asserted claims, including how Old GM violated the due process rights of certain Non-Ignition Switch Plaintiffs.

45. The negotiations over notice costs involved the retention of a professional notice provider, Cameron R. Azari, Esq., the Director of Legal Notice for Hilsoft Notifications, which is a business unit of Epiq Systems Class Action and Claims Solutions. *See* Decl. Ex. B. The parties agreed not only on notice costs, but also on the form and content of both long-form and short-form notices to Plaintiffs, as well as notice to Unitholders. *See* Decl. Exs. Q-S.

46. Further, the parties agreed on the material terms of the Settlement as early as August 3, and *all* terms of the Settlement were finally agreed on as of August 12, with execution a mere formality. *See* Decl. ¶¶ 3, 11-12; *cf. Alvarez v. City of New York*, 146 F. Supp. 2d 327, 336 (S.D.N.Y. 2001) (rejecting the plaintiff's argument that three material terms had not been resolved where plaintiff had agreed to the monetary amount during a conference and did not earlier raise outstanding issues).

47. Any supposed open discussion points, such as obtaining client signatures, related to performance of the Settlement and have no bearing on the enforceability of the Settlement under recent controlling jurisprudence from the District Court for the Southern District of New York and the New York Court of Appeals. *See In re Lehman Bros. Holdings Inc.*, No. 17 Civ. 03424 (DLC), 2017 WL 3278933, at \*3-4 (S.D.N.Y. Aug. 2, 2017) (holding that agreement was enforceable once agreement on all material terms—a sum of money in exchange for a release—was reached regardless of continued negotiations over the performance of the settlement);

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN AND  
WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF  
CANADA LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**REQUEST TO ADMIT**

Date: November 8, 2017

**ROCHON GENOVA LLP**  
Barristers • Avocats  
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*Co-Counsel for the Defendants*

INDEX**TAB      DOCUMENT**

1.      Request to Admit
- A.      “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” dated May 29, 2014 by Anton R. Valukas of Jenner & Block
- B.      “Examining the GM Recall and NHSTA’s Direct Investigation Process”, Hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance, of the Committee on Commerce, Science, and Transportation, United States Senate, One Hundred Thirteenth Congress, Second Session, dated April 2, 2014
- C.      “GM Ignition Switch Recall: Investigation Update”, Hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, One Hundred Thirteenth Congress, Second Session, dated June 18, 2014

# TAB 1

Court File No.: CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N :

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL  
MOTORS CORPORATION, GENERAL MOTORS COMPANY, and GENERAL  
MOTORS OF CANADA LIMITED (now known as GENERAL MOTORS OF  
CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**REQUEST TO ADMIT**

**YOU ARE REQUESTED TO ADMIT**, for the purposes of this proceeding only, the truth of the following facts:

**The Valukas Report**

1. On March 10, 2014, Mary Barra (“Barra”), the CEO of GM, and GM’s Board directed Anton R. Valukas (“Valukas”) of the law firm Jenner & Block (“Jenner”) to investigate the circumstances that led to the recall of the Cobalt and other GM vehicles as a result of a flawed ignition switch.
2. Valukas prepared a “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” dated May 29, 2014 (the “Report”).
3. Barra and GM’s Board directed Jenner to undertake a full and complete investigation into the GM ignition switch issue, and to produce a truthful report (p. 12 of the Report).

4. Specifically, Barra and GM's Board directed Jenner to determine the circumstances that led to a recall for GM vehicles equipped with the flawed ignition switch.
5. The report covers the period from when the ignition switch was designed, prior to 2005, to the 2014 recall of vehicles equipped with the switch (pp. 5 and 12 of the Report).
6. The scope of Valukas's investigation into GM's response to the ignition switch defect:
  - a. Throughout the investigation, GM gave Jenner unfettered access to its documents and witnesses (p. 5 of the Report);
  - b. GM identified over 300 document custodians for collection (p. 12 of the Report);
  - c. Documents from these custodians were collected and reviewed by Jenner (p. 12 of the Report);
  - d. The reviewed documents included (1) forensically imaged hard drives; (2) server-based emails and electronic share drives; (3) legacy electronic data collections; (4) hard copy documents; and (5) database collections from various GM electronic databases (p. 13 of the Report);
  - e. Search terms designed to identify the most relevant subset of information were developed and applied (p. 13 of the Report);
  - f. In total, Jenner collected in excess of 41 million documents (p. 14 of the Report);
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11. GM engineers categorized the ignition switch related stall issue as a customer satisfaction concern (pp. 6-7 of the Report).
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19. GM considered that customers would associate the word "stalling" with a safety issue (p. 8 of the Report).
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21. The November 2004 PRTS was closed in March 2005 (p. 69 of the Report).
22. There was no follow-up action relating to the ignition switch issue following the closure of the November 2004 PRTS in March 2005 (p. 69 of the Report).
23. Valukas concluded that the 2004 PRTS was closed by GM without issue because the ignition switch issue was labelled as a non-safety issue (p. 69 of the Report).
24. Valukas found that the November 2004 PRTS was closed because GM officials decided that none of the proposed solutions represented a viable business option, and that the solutions were not cost effective, did not solve the problem, and did not have acceptable lead time to implement the change (p. 69 of the Report).
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29. After receipt of the June 2005 customer letter, GM continued to label the ignition switch issue as a customer convenience issue and not a safety concern (p. 90 of the Report).
30. Raymond DeGiorgio (“DeGiorgio”) was the GM engineer who originally approved the below-specification ignition switch (p. 9 of the Report).
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32. The switch failed to meet GM specifications for torque, because the turning of the key required less force than the designers had intended (p. 6 of the Report).
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### **Hearings before the U.S. Senate and House of Representatives**

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58. Barra also stated that Valukas presented his findings to the GM Board of Directors (p. 11 of the June 18 transcript).
59. Senator McCaskill of Missouri noted before the U.S. Senate that GM knew of the faulty switch in 2004, knew in 2005 that the ignition switch issue was causing airbags to not deploy, and knew by late 2005 that someone had died as a result of the faulty ignition switch and airbag issue (p. 3 of the April 2 transcript).
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61. DeGiorgio, who held the title of “design release engineer”, had responsibility for key decisions to approve use of the defective switch in 2002, and to modify the switch in 2006 (p. 52 of June 18 transcript).
62. DeGiorgio signed a document on April 26, 2006 approving the ignition switch part change (p. 31 of the April 2 transcript and p. 52 of the June 18 transcript).
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70. From 2011, GM staff responsible for vehicle safety reported either directly to Barra, or ultimately to Barra through a chain of command (p. 5 of the June 18 transcript).
71. At least one high-level executive who was working on the ignition switch solution reported directly to Barra (p. 5 of the June 18 transcript).
72. The cost to repair each faulty ignition switch would have been \$2, as noted in Senator Edward Markey's statement (p. 29 of the April 2 transcript).
73. From February 2014 until the June 18, 2014 Hearing, GM recalled "tens of millions" of cars (p. 36 of the June 18 transcript).

**YOU ARE REQUESTED TO ADMIT**, for the purposes of this proceeding only, the authenticity (see rule 51.01 of the Rules of Civil Procedure) of the following documents:

1. "Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls" dated May 29, 2014 by Anton R. Valukas of Jenner & Block, enclosed as Schedule A is a copy of the original report.
2. "Examining the GM Recall and NHSTA's Direct Investigation Process", Hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance, of the Committee on Commerce, Science, and Transportation, United States Senate, One Hundred Thirteenth Congress, Second Session, dated April 2, 2014, enclosed as Schedule B is a copy of the original transcript.
3. "GM Ignition Switch Recall: Investigation Update", Hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, One Hundred Thirteenth Congress, Second Session, dated June 18, 2014, enclosed as Schedule C is a copy of the original transcript.

Attached to this request is a copy of each of the documents referred to above.



**YOU MUST RESPOND TO THIS REQUEST** by serving a response to request to admit in Form 51B prescribed by the Rules of Civil Procedure **WITHIN TWENTY DAYS** after this request is served on you. If you fail to do so, you will be deemed to admit, for the purposes of this proceeding only, the truth of the facts and the authenticity of the documents set out above.

Date: November 8, 2017

**ROCHON GENOVA LLP**

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Toronto, Ontario M5H 2K1

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*Co-Counsel for the Defendants*

BAKER, NICHOLAS, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED IN  
TORONTO

**REQUEST TO ADMIT**

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*Co-Lead Counsel for the Plaintiffs*

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

NICHOLAS BAKER, by his estate representative SUZANNE BAKER,  
DANIEL BAKER, JUDY HANSEN, STACEY GREEN  
AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL  
MOTORS CORPORATION, GENERAL MOTORS COMPANY, and GENERAL  
MOTORS OF CANADA LIMITED (now known as GENERAL MOTORS OF  
CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AMENDED REQUEST TO ADMIT**

**YOU ARE REQUESTED TO ADMIT**, for the purposes of this proceeding only, the truth of the following facts:

**The Valukas Report**

1. On March 10, 2014, Mary Barra (“Barra”), the CEO of GM, and GM’s Board directed Anton R. Valukas (“Valukas”) of the law firm Jenner & Block (“Jenner”) to investigate the circumstances that led to the recall of the Cobalt and other GM vehicles as a result of a flawed ignition switch.
2. Valukas prepared a “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” dated May 29, 2014 (the “Report”).
3. Barra and GM’s Board directed Jenner to undertake a full and complete investigation into the GM ignition switch issue, and to produce a truthful report (p. 12 of the Report).



4. Specifically, Barra and GM's Board directed Jenner to determine the circumstances that led to a recall for GM vehicles equipped with the flawed ignition switch.
5. The report covers the period from when the ignition switch was designed, prior to 2005, to the 2014 recall of vehicles equipped with the switch (pp. 5 and 12 of the Report).
6. The scope of Valukas's investigation into GM's response to the ignition switch defect:
  - a) Throughout the investigation, GM gave Jenner unfettered access to its documents and witnesses (p. 5 of the Report);
  - b) GM identified over 300 document custodians for collection (p. 12 of the Report);
  - c) Documents from these custodians were collected and reviewed by Jenner (p. 12 of the Report);
  - d) The reviewed documents included (1) forensically imaged hard drives; (2) server-based emails and electronic share drives; (3) legacy electronic data collections; (4) hard copy documents; and (5) database collections from various GM electronic databases (p. 13 of the Report);
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#### **U.S. Deferred Prosecution Agreement, September 16, 2015**

74. On September 17, 2015, the United States District Court, Southern District of New York filed a claim, submitted by the U.S. Government, seeking GM's forfeiture of \$900,000,000.
75. The probable cause for this forfeiture, as listed in the September 17, 2015 claim, is a September 16, 2015 Deferred Prosecution Agreement between the U.S. government and GM (the "Deferred Prosecution Agreement").
76. The Deferred Prosecution Agreement was as follows:
  - a) GM consented to being charged with one count of engaging in a scheme to conceal the deadly Ignition Switch Defect from its U.S. regulator (p. 1 of the Deferred Prosecution Agreement);
  - b) GM consented to being charged with one count of committing wire fraud by defrauding U.S. consumers into purchasing its products by means of concealing information and making misleading statements about the safety of vehicles equipped with the Ignition Switch Defect (pp. 1 and 2 of the Deferred Prosecution Agreement);

- c) GM admitted that it failed to disclose to its U.S. regulator and the public the Ignition Switch Defect, a potentially lethal safety defect that caused airbag non-deployment in certain GM model cars (p. 2 of the Deferred Prosecution Agreement);
- d) GM admitted that it misled consumers about the safety of GM cars afflicted by the Ignition Switch Defect (p. 2 of the Deferred Prosecution Agreement); and
- e) GM agreed to pay \$900 million to the United States, representing the proceeds of the conduct as described in this paragraph (p. 2 of the Deferred Prosecution Agreement).

77. As part of the Agreement, GM admitted and agreed to certain facts, mainly that:

- a) in or about the spring of 2012 through in or about February 2014, GM failed to disclose a deadly safety Ignition Switch Defect to the U.S. National Highway Traffic Safety Administration (“NHSTA”) (p. 1 of Exhibit C to the Deferred Prosecution Agreement);
- b) GM falsely represented to consumers that vehicles containing the Ignition Switch Defect posed no safety concerns (p. 1 of Exhibit C to the Deferred Prosecution Agreement);
- c) before the defective ignition switches went into production in 2002, certain GM engineers knew of the Ignition Switch Defect (p. 2 of Exhibit C to the Deferred Prosecution Agreement);
- d) the GM engineer in charge of the Defective Switch approved its production, despite knowing of the Ignition Switch Defect (p. 2 of Exhibit C to the Deferred Prosecution Agreement);
- e) in or about 2004 and 2005, GM rejected a simple improvement to the head of the key that would have significantly reduced unexpected shutoffs at a price of less than a dollar a car (p. 2 of Exhibit C to the Deferred Prosecution Agreement);
- f) from approximately the spring of 2012, GM personnel knew that the Defective Ignition Switch presented a safety defect that could cause airbag non-deployment associated with serious injury and death (p. 2 of Exhibit C to the Deferred Prosecution Agreement)
- g) in a context of a five-day regulatory reporting requirement, GM first notified the NHTSA and the public about 20 months after GM knew about the connection between the Ignition Switch Defect and fatal airbag non-deployment incidents (p. 2 of Exhibit C to the Deferred Prosecution Agreement);

- h) on at least two occasions while the Ignition Switch Defect was well known by some within GM but not disclosed to the public or NHTSA, certain GM personnel made incomplete and therefore misleading presentations to NHTSA assuring that GM would and did act promptly, effectively and in accordance with its formal recall policy to respond to safety problems, including airbag-related safety devices (p. 2 of Exhibit C to the Deferred Prosecution Agreement);
- i) GM not only failed to disclose the Ignition Switch Defect but also actively touted the reliability and safety of cars equipped with the Ignition Switch Defect with a view to promoting sales of used GM cars (p. 3 of Exhibit C to the Deferred Prosecution Agreement);
- j) in early 2001 and early 2002, an engineer of GM was informed by the supplier of the switch, who was in charge of testing and manufacturing the component, that the ignition switch was not meeting the torque specification (p. 5 of Exhibit C to the Deferred Prosecution Agreement);
- k) this fact was confirmed by the supplier of the switch in an email to GM in early 2002 (p. 5 of Exhibit C to the Deferred Prosecution Agreement);
- l) in response to this, the GM engineer stated in the email that he was “tired of the switch from hell” and did not want to either compromise the electrical performance of the switch or slow the production schedule (p. 5 of Exhibit C to the Deferred Prosecution Agreement);
- m) the GM engineer directed the supplier of the switch to “maintain present course” notwithstanding that there was “still too soft of a detent” (p. 5 of Exhibit C to the Deferred Prosecution Agreement);
- n) in April 2006, the GM engineer authorized the replacement of the Ignition Switch Defect with a non-defective switch (p. 8 of Exhibit C to the Deferred Prosecution Agreement);
- o) the GM engineer directed that this change be implemented without a corresponding part number change (p. 8 of Exhibit C to the Deferred Prosecution Agreement);
- p) as a result of not noting the part number change, no one looking at the switch was able, without taking it apart, to tell the difference between the switch that was defective and the non-defective switch (p. 8 of Exhibit C to the Deferred Prosecution Agreement);
- q) despite the regulatory requirement that all safety defects be reported to NHTSA within five days of discovering them, GM did not notify NHTSA and the public about the Ignition Switch Defect until February 2014, about 20 months after GM knew about the connection between the Ignition Switch



Defect and fatal airbag non-deployment incidents (p. 15 of Exhibit C to the Deferred Prosecution Agreement);

r) on October 22, 2012, while the Ignition Switch Defect was well known by some within GM but not disclosed to the public or NHTSA, certain GM personnel made incomplete and therefore misleading presentations to NHTSA assuring that GM would and did act promptly, effectively and in accordance with its formal recall policy to respond to safety problems, including airbag-related safety devices (p. 15 of Exhibit C to the Deferred Prosecution Agreement);

s) in or about October 2012 and November 2013, GM personnel gave presentations to NHTSA in which they touted the robustness of GM's internal recall process and gave the misleading impression that GM worked promptly and efficiently to resolve known safety defects, including defects related to airbag non-deployment (pp. 15 and 18 of Exhibit C to the Deferred Prosecution Agreement);

t) GM did not recall the vehicles equipped with the Defective Ignition Switch until February 2014 (p. 20 of Exhibit C to the Deferred Prosecution Agreement).

**YOU ARE REQUESTED TO ADMIT**, for the purposes of this proceeding only, the authenticity (see rule 51.01 of the Rules of Civil Procedure) of the following documents:

1. "Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls" dated May 29, 2014 by Anton R. Valukas of Jenner & Block, enclosed as Schedule A is a copy of the original report.
2. "Examining the GM Recall and NHSTA's Direct Investigation Process", Hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance, of the Committee on Commerce, Science, and Transportation, United States Senate, One Hundred Thirteenth Congress, Second Session, dated April 2, 2014, enclosed as Schedule B is a copy of the original transcript.
3. "GM Ignition Switch Recall: Investigation Update", Hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, One Hundred Thirteenth Congress, Second Session, dated June 18, 2014, enclosed as Schedule C is a copy of the original transcript.
4. U.S. District Court, Southern District of New York September 17, 2015 document, numbered 1: 15-cv-07342, enclosing the September 16, 2015 Deferred Prosecution Agreement, enclosed as Schedule D is a copy of the original U.S. District Court document with original attachments and schedules.

Attached to this request is a copy of each of the documents referred to above.

**YOU MUST RESPOND TO THIS REQUEST** by serving a response to request to admit in Form 51B prescribed by the Rules of Civil Procedure **WITHIN TWENTY DAYS** after this request is served on you. If you fail to do so, you will be deemed to admit, for the purposes of this proceeding only, the truth of the facts and the authenticity of the documents set out above.

Date: January 19, 2018

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Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED IN  
TORONTO

**AMENDED REQUEST TO  
ADMIT**

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Court File No. CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER, DANIEL  
BAKER, JUDY HANSEN, STACEY GREEN and WENDY SCOBIE

Plaintiffs

- and -

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC,  
GENERAL MOTORS CORPORATION, GENERAL MOTORS COMPANY,  
and GENERAL MOTORS OF CANADA LIMITED (now known as GENERAL  
MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

In response to your Request to Admit dated November 8, 2017 and supplemental Request to Admit dated January 22, 2018, (the "Request to Admit"), the defendants General Motors LLC, and General Motors of Canada Limited (now known as General Motors of Canada Company) (collectively referred to herein as "GM LLC"), respond as indicated below to each paragraph of the Request to Admit, which paragraphs are reproduced only for convenience.

**Defendants and Jurisdiction**

This Response to Request to Admit is not provided on behalf of General Motors Corporation (n/k/a Motors Liquidation Company) ("Old GM"). The Request to Admit improperly names counsel for the other defendants as also being counsel to Old GM. Counsel to the other defendants has never appeared on behalf of Old GM in this proceeding.

Furthermore, Old GM is dissolved and is no longer a legal entity. Old GM filed a petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for

the Southern District of New York (“New York Bankruptcy Court”), Case No. 09-50026. Old GM subsequently dissolved pursuant to a Certificate of Dissolution dated December 15, 2011. The New York Bankruptcy Court issued a Sale Order and Injunction approving the sale of substantially all of Motors Liquidation Company f/k/a General Motors Corporation’s assets to NGMCO, Inc., as successor in interest to Vehicle Acquisition Holdings LLC (defined in the Sale Order and Injunction as the “Purchaser”). This Sale was consummated on July 10, 2009. A predecessor to General Motors LLC (*i.e.*, NGMCO, Inc.) was a party to the Sale Order and/or the Amended and Restated Master Sale and Purchase Agreement (“Sale Agreement”). General Motors LLC did ultimately acquire substantially all of Old GM’s assets, free and clear of all liens, claims, and encumbrances, except for certain limited exceptions. Pursuant to the Sale, GM LLC assumed, certain Product Liabilities (if proven) as that term is defined in the First Amendment to the Sale Agreement.

This Response to Request to Admit is also made without prejudice to the rights of General Motors Holdings LLC (“GM Holdings”) and General Motors Company (“GM Company”) to contest the jurisdiction of the Ontario Court, and all rights in relation thereto are reserved. GM Holdings and GM Company are holding companies which do not have any connection to Ontario. GM Holdings and GM Company do not, nor have they ever, conducted business in Ontario. Automotive business operations in the United States are conducted by General Motors LLC, which, as provided above, acquired substantially all of the assets of Old GM.

#### **Preliminary Statement**

Every admission of fact in this Response to Request to Admit incorporates the facts in this preliminary statement by reference.

Furthermore, every admission of fact in this Response to Request to Admit is admitted only as it relates to vehicles subject to GM Recall Nos. 13454 and 14063, identified below, and

GM LLC denies the asserted fact in connection with vehicles subject to GM Recall Nos. 14299, 14350, 14172, 14294 and 14092, identified below.

GM LLC admits there is a safety defect in which there was a low-torque ignition switch installed in many of the vehicles identified below, which, under certain circumstances, may inadvertently move out of the “Run” position (“defective switch”). If this movement occurs, the driver loses the assistance of power steering and power brakes. GM LLC admits that if a vehicle loses power steering and power assist braking, the vehicle would still have operational manual steering and base brakes. If a collision occurs while the switch is in the “Accessory” or “Off” position, the vehicle’s safety airbags may fail to deploy—increasing the risk of death and serious injury in certain types of crashes in which the airbag was otherwise designed to deploy. The model year cars which may have been equipped with the defective switch—a Delta Ignition Switch manufactured by Delphi—are the 2005, 2006, and 2007 Chevrolet Cobalt; the 2007 Pontiac G5; the 2003, 2004, 2005, 2006, and 2007 Saturn Ion; the 2006 and 2007 Chevrolet HHR; the 2007 Saturn Sky; and the 2006 and 2007 Pontiac Solstice. This safety defect in these identified vehicles is the subject of GM Recall Nos. 13454 and 14063.<sup>1</sup> Subsequent model year vehicles—including some 2008-2010 Chevrolet Cobalt, 2008-2011 Chevrolet HHR, 2008-2010 Pontiac Solstice, 2008-2010 Pontiac G5, and 2008-2010 Saturn Sky vehicles—were equipped with an ignition switch

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<sup>1</sup> Although GM LLC has admitted certain facts about the acts, conduct, or knowledge of General Motors Corporation (“Old GM”) prior to July 10, 2009, GM LLC did not assume liability for any acts, conduct, or knowledge of Old GM beyond those Assumed Liabilities in the applicable Bankruptcy Sale Order and as adjudicated by the New York Bankruptcy Court. Moreover, none of the admissions in these responses are intended to or should be construed as an admission that any such acts, conduct, and knowledge of Old GM are imputable to GM LLC under applicable non-bankruptcy laws. Finally, GM LLC’s admissions in these responses are not intended to alter, modify, expand, or otherwise affect any provision of the July 5, 2009 Sale Order or other rulings that were issued by the New York Bankruptcy Court or the rights, protections, and responsibilities of GM LLC under that Sale Order and other rulings.

with a different part number, a longer and stronger detent plunger, and greater torque resistance than the defective switch.

In contrast, and notwithstanding the fact that GM LLC has issued recalls related to discrete ignition key conditions in other vehicle models—such as GM Recall Nos. 14299, 14350, 14172, and 14294, related to the Chevrolet Malibu, Chevrolet Impala, Chevrolet Camaro, Buick LaCrosse, Buick Lucerne, Cadillac CTS, and Cadillac SRX—none of those other vehicle models are equipped with a Delta Ignition Switch. Ignition switches used in GM-branded vehicles vary in their suppliers, subcomponent suppliers, design release engineers, electrical and mechanical architectures, components, design and development, and production and recall histories.

GM LLC's other ignition switch and ignition key recalls relate to ignition switches and vehicle platforms that do not share common architecture and components with the Delta Ignition Switch and model year vehicles equipped with that switch. Although ignition switches between vehicle platforms may have *some* electrical and mechanical architecture in common, they are different in various other respects, and many do not even share the same supplier. For example, Delphi Automotive Systems, LLC, supplied the Delta Ignition Switch, whereas Dalian Alps Electronics Company supplied the ignition switches for other recalled vehicles, including certain model year Sigma Platform, K Platform, and MS 2000 Platform vehicles. Because suppliers often source their own subcomponents, the subcomponent suppliers for these ignition switches also vary across platforms.

In addition to having different suppliers, the various ignition switches had different Design Release Engineers. Further, the histories of the design and development, production, part changes, performance, receipt of complaints, and recalls differ between these ignition switches. The recall conditions and remedies at issue among the different ignition switch platforms are also unique.



GM Recall Nos. 13454 and 14063—applicable to certain model year Chevrolet Cobalt, Pontiac G5, Saturn Ion, Chevrolet HHR, Saturn Sky, and the Pontiac Solstice vehicles listed above—involved a low-torque ignition switch installed in many of the vehicles and required replacement of the ignition switch, ignition cylinder, and issuance of two new keys. In contrast, GM Recall No. 14172, regarding the Cadillac CTS, involved a risk of knee contact and was addressed through replacement of the key and key inserts. The remedy for GM Recall No. 14294, regarding the Chevrolet Camaro, involved separating the key blade from the original flip key and providing two new keys.

Accordingly, GM LLC states that the ignition switch and key systems in vehicles subject to GM Recall Nos. 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further states that the ignition switch originally equipped in vehicles subject to GM Recall No. 14092 is not substantially similar to that originally equipped in vehicles subject to GM Recall Nos. 13454 and 14063.

**RESPONSE TO REQUEST TO ADMIT****The Valukas Report**

1. On March 10, 2014, Mary Barra (“Barra”), the CEO of GM, and GM’s Board directed Anton R. Valukas (“Valukas”) of the law firm Jenner & Block (“Jenner”) to investigate the circumstances that led to the recall of the Cobalt and other GM vehicles as a result of a flawed ignition switch.

**Response:** GM LLC admits the truth of the facts in Request No. 1 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

2. Valukas prepared a “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” dated May 29, 2014 (the “Report”).

**Response:** GM LLC admits the truth of the facts in Request No. 2.

3. Barra and GM’s Board directed Jenner to undertake a full and complete investigation into the GM ignition switch issue, and to produce a truthful report (p. 12 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 3 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299,

14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

4. Specifically, Barra and GM's Board directed Jenner to determine the circumstances that led to a recall for GM vehicles equipped with the flawed ignition switch.

**Response:** GM LLC admits the truth of the facts in Request No. 4 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

5. The report covers the period from when the ignition switch was designed, prior to 2005, to the 2014 recall of vehicles equipped with the switch (pp. 5 and 12 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 5 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

6. The scope of Valukas's investigation into GM's response to the ignition switch defect:

a) Throughout the investigation, GM gave Jenner unfettered access to its documents and witnesses (p. 5 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(a) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

- b) GM identified over 300 document custodians for collection (p. 12 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(b) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

- c) Documents from these custodians were collected and reviewed by Jenner (p. 12 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(c) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and

14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

d) The reviewed documents included (1) forensically imaged hard drives; (2) server-based emails and electronic share drives; (3) legacy electronic data collections; (4) hard copy documents; and (5) database collections from various GM electronic databases (p. 13 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(d) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

e) Search terms designed to identify the most relevant subset of information were developed and applied (p. 13 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(e) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

- f) In total, Jenner collected in excess of 41 million documents (p. 14 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(f) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

- g) GM provided Jenner with unlimited access to interview any GM employee (p. 14 of the Report);

**Response:** GM LLC admits the truth of the facts in Request No. 6(g) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

- h) For the purposes of producing the Report, Jenner interviewed over 230 witnesses and conducted over 350 interviews of these individuals (p. 14 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 6(h) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC

denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

7. In November 2004, GM initiated a Problem Resolution Tracking System (“PRTS”) to monitor possible ignition switch issues (p. 63 of the Report).

**Response:** GM LLC admits the allegations in Request No. 7 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits the following as related to vehicles subject to GM Recall Nos. 13454 and 14063: General Motors Corporation (“Old GM”) opened six engineering inquiries, which included PRTSs, beginning in November 2004, that would be initiated in the ensuing five years, to consider engineering changes for new cars being rolled off the production line. This first inquiry was closed “with no action” in March 2005. Fixes such as improving the torque performance of the defective switch itself and changing the head of the associated key to reduce the likelihood of inadvertent movement from Run to Accessory, were rejected as not representing “an acceptable business case.” Having decided in 2005 that the switch did not pose a safety concern, Old GM engineers concluded that each proposed solution would take too long to implement, would cost too much, and would not fully fix “the possibility of the key being turned (ignition turn off) during driving.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

8. A PRTS is an organization-wide report used to document all issues during a vehicle's life cycle.

**Response:** GM LLC admits that a PRTS—Problem Resolution Tracking System—is an organization-wide problem tracking system that provides a means for documenting and monitoring the ongoing progress of issue resolution on vehicles and components. Beyond this, GM LLC denies the remaining allegations in the Request.

9. In 2005, GM became aware that a faulty ignition switch had been causing GM vehicles to stall while in motion (pp. 6-7 of the Report).

**Response:** GM LLC admits the allegations in Request No. 9 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: In or about 2004 or 2005, Old GM received information from Old GM employees, media representatives, and Old GM customers, about sudden stalls and engine shutoffs while driving, caused by the defective switch. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

10. GM engineers did not classify the ignition switch related stall issue as a safety concern.

**Response:** GM LLC admits the allegations in Request No. 10 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7 above. Beyond this, GM LLC denies this Request



to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

11. GM engineers categorized the ignition switch related stall issue as a customer satisfaction concern (pp. 6-7 of the Report).

**Response:** GM LLC admits the allegations in Request No. 11 attempt to paraphrase portions of the Valukas Report. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: In 2005, Old GM engineers categorized the problem as an issue of customer satisfaction, not safety. See also GM LLC's response to Request No. 7 above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

12. GM personnel classified further ignition switch complaints as non-safety issues (p. 53 of the Report).

**Response:** GM LLC admits the allegations in Request No. 12 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's responses to Request Nos. 7 and 11 above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos.

14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

13. Several GM committees reviewed proposed fixes to the ignition switch defect in 2005 (p. 8 of the Report).

**Response:** GM LLC admits the allegations in Request No. 13 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7 above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

14. The above noted GM committees determined that these proposed fixes would be too costly to implement (p. 8 and 54 of the Report).

**Response:** GM LLC admits the allegations in Request No. 14 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

15. Valukas found that if the problem had been labelled a safety concern, potential solutions would not have been weighed against cost and business considerations (pp. 8 and 54 of the Report).

**Response:** GM LLC admits the allegations in Request No. 15 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

16. In December 2005 GM sent a "Technical Service Bulletin" ("TSB") to GM dealers (p. 8 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 16 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related only to vehicles subject to GM Recall Nos. 13454 and 14063: Having determined that there was no safety concern and thus need not be considered further for recall, Old GM issued a service bulletin to its dealers in December 2005 (the "2005 Service Bulletin"), alerting them to an 'inadvertent turning off' problem and instructing them to provide any complaining customers with inserts for their key heads that would transform the slot into a hole and thus reduce the lever arm. The 2005 Service Bulletin deliberately omitted the word "stall." Thus, a dealer responding to a customer inquiry or complaint would not locate the bulletin if he or she only used the word "stall" in the search. The reason for the omission of the word "stall" was to avoid attracting the attention of Old GM's regulator, NHTSA. While NHTSA agreed that stalls were not necessarily safety issues, certain Old

GM personnel were also aware of the regulator's sensitivity to stalling problems throughout this period. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

17. The December 2006 [sic] TSB suggested, in part, that customers who complain about ignition switch issues should be advised to remove heavy items from their key rings (p. 8 of the Report).

**Response:** GM LLC admits the allegations in Request No. 17 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: The 2005 Service Bulletin instructed its dealers that any complaining customers should be advised of the potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort, and should take steps to prevent it—such as removing unessential items from their key chain. See also GM LLC's response to Request No. 16. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

18. This December 2005 TSB omitted the word "stalling".

**Response:** GM LLC admits the truth of the facts in Request No. 18) as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request

No. 16. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

19. GM considered that customers would associate the word “stalling” with a safety issue (p. 8 of the Report).

**Response:** GM LLC admits the allegations in Request No. 19 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s response to Request No. 16. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

20. The December 2005 TSB omitted the word “stalling” at least in part because GM considered that customers would associate this word with a safety issue.

**Response:** GM LLC admits the allegations in Request No. 20 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s response to Request No. 16. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

21. The November 2004 PRTS was closed in March 2005 (p. 69 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 21 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

22. There was no follow-up action relating to the ignition switch issue following the closure of the November 2004 PRTS in March 2005 (p. 69 of the Report).

**Response:** GM LLC denies the allegations in Request No. 22. See also GM LLC's response to Request No. 7.

23. Valukas concluded that the 2004 PRTS was closed by GM without issue because the ignition switch issue was labelled as a non-safety issue (p. 69 of the Report).

**Response:** GM LLC admits the allegations in Request No. 23 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

24. Valukas found that the November 2004 PRTS was closed because GM officials decided that none of the proposed solutions represented a viable business option, and that the solutions were not cost effective, did not solve the problem, and did not have acceptable lead time to implement the change (p. 69 of the Report).

**Response:** GM LLC admits the allegations in Request No. 24 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 7. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

25. Valukas found that engineers involved with the Cobalt ignition switch agreed that if they knew the ignition switch failure caused airbags not to deploy, and was therefore a safety issue, they would never have closed the November 2004 PRTS without action (p. 70 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 25 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

26. On June 29, 2005 GM received a letter from a customer complaining that their 2005 Cobalt turned off while driving (p. 90 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 26, with the clarification that the customer letter is dated June 29, 2005, and, upon GM LLC's information and belief, Old GM received it on or about July 8, 2005.

27. This June 29, 2005 customer letter stated that the car turning off while driving "is a safety/recall issue if there ever was one" (p. 90 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 27.

28. The June 29, 2005 customer letter stated that cars turning off while driving could result in accident or death (p. 90 of the Report).

**Response:** GM LLC admits the allegations in Request No. 28 attempt to paraphrase portions of the June 29, 2015 letter referenced above. GM LLC admits this letter states that the "safety problems" that may occur include "accident or death." Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

29. After receipt of the June 2005 customer letter, GM continued to label the ignition switch issue as a customer convenience issue and not a safety concern (p. 90 of the Report).

**Response:** GM LLC admits the allegations in Request No. 29 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's responses to Request Nos. 7, 11, and 16. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172,



and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

30. Raymond DeGiorgio (“DeGiorgio”) was the GM engineer who originally approved the below-specification ignition switch (p. 9 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 30 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

31. Valukas found, in part, that DeGiorgio knew that the switch failed to meet GM specifications for torque when it was in the design phase. (p. 6 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 31 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

32. The switch failed to meet GM specifications for torque, because the turning of the key required less force than the designers had intended (p. 6 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 32 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC also incorporates by reference its admissions in the Preliminary Statement above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

33. DeGiorgio approved the switch for production.

**Response:** GM LLC admits the truth of the facts in Request No. 33 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

34. Valukas also found that DeGiorgio approved the switch for production while he ought to have known it did not meet GM's specifications for torque (p. 6 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 34 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 31. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

35. In 2006, DeGiorgio authorized a change to part of the ignition switch that increased the torque required to turn the key (pp. 9-10 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 34 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: In April 2006, DeGiorgio, the ignition switch design release engineer, who had received numerous complaints about the defective switch from other Old GM employees, authorized replacement of the defective switch in new cars with a different one that had a longer detent plunger and therefore significantly greater torque. DeGiorgio further directed, in contravention of accepted Old GM practice, that this change be implemented without a corresponding part number change. As a result, no one looking at the switch would be able, without taking it apart, to tell the difference between the old, defective switch and the new, non-defective one. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

36. In 2009, when asked about the part change, DeGiorgio denied having changed the part (p. 10 of the Report).

**Response:** GM LLC admits the allegations in Request No. 36 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: In a deposition on April 29, 2013 and before that before time, DeGiorgio continued to deny knowledge of any change. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject

to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

37. In the years that followed, DeGiorgio continued to deny having changed the part (p. 10 of the Report).

**Response:** GM LLC admits the allegations in Request No. 37 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 36. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

38. Valukas concluded that DeGiorgio did not properly record the part number change, and this decision not to record the change in the part number was deliberate (p. 10 of the Report).

**Response:** GM LLC admits the allegations in Request No. 38 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

39. Valukas found that DeGiorgio's decision not to change the part number hindered investigations into the ignition switch issue (p. 10 of the Report).

**Response:** GM LLC admits the allegations in Request No. 39 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

40. GM retained a law firm, King & Spalding ("K&S"), to assist in dealing with the ignition switch claims (p. 15 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 40.

41. K&S submitted a case analysis to GM on July 22, 2013 (p. 203 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 41.

42. K&S's July 2013 analysis stated that a jury would "almost certainly" conclude that the Cobalt's ignition switch was defective and unreasonably dangerous (pp. 203-204 of the Report).

**Response:** GM LLC admits the allegations in Request No. 42 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: King and Spalding's case analysis of a Georgia crash involving a 2005 Chevrolet Cobalt provided that

“[T]here is little doubt that a jury here will find that the ignition switch used on [the Georgia Crash car] was defective and unreasonably dangerous, and that it did not meet GM’s own torque specifications. In addition, the [engineering inquiry documents about the defective switch from 2004 and 2005] and the on-going FPE investigation have enabled plaintiffs’ counsel to develop a record from which he can compellingly argue that GM has known about this safety defect from the time the first 2005 Cobalts rolled off the assembly line and essentially has done nothing to correct the problem for the last nine years.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

43. K&S’s July 2013 analysis stated that the danger of the Cobalt ignition switch was known virtually from the date of vehicle launch (pp. 203-204 of the Report).

**Response:** GM LLC admits the allegations in Request No. 43 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s response to Request No. 42. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

44. In November 2013, GM investigator Brian Stouffer reported to several GM committees that the ignition switch was inadvertently being switched to “accessory”, causing the airbags not to deploy (p. 213 of the Report).

**Response:** GM LLC admits that on November 5, 2013, Brian Stouffer made a presentation to the Investigation Status Review committee entitled, “2005-7 Cobalt, G5, Pursuit, 2003-2007 Ion, 2006-2007 HHR,” which provided, in part: “Condition: A review of selected Cobalt & G5 frontal crash events indicates some airbag non[-]deploys have occurred where the ignition switch was in accessory or off. The condition appears to be limited to 2005-07 Cobalt & G5 vehicles. The noted field events involve vehicles going off the road and/or hitting smaller objects shortly before a more significant impact.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

45. GM did not order a recall of the faulty ignition switch until January 31, 2014 (p. 213 of the Report).

**Response:** GM LLC admits the truth of the facts in Request No. 45 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

46. As an overall conclusion, Valukas found that GM personnel exhibited a “history of failures” through not addressing the ignition switch issue for over 11 years (pp. 2 and 33 of the Report).

**Response:** GM LLC admits the allegations in Request No. 46 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that the Valukas Report, which relates to vehicles subject to GM Recall Nos. 13454 and 14063, states that “GM personnel’s inability to address the ignition switch problem for over 11 years is a history of failures.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

47. Valukas concluded that there were substantial delays in issuing a recall for the faulty ignition switches as a “failure” (pp. 1-2 of the Report).

**Response:** GM LLC admits the allegations in Request No. 47 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s response to Request No. 77(g) below. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.



48. Valukas found that GM failed to understand that when an ignition switch moved to “accessory” or “off”, a car’s electrical system, including the airbags, would shut off (pp. 2 and 33 of the Report).

**Response:** GM LLC admits the allegations in Request No. 48 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that the Valukas Report, which relates to vehicles subject to GM Recall Nos. 13454 and 14063, states that “A critical factor in GM personnel’s initial delay in fixing the switch was their failure to understand, quite simply, how the car was built.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

49. Valukas further concluded that if GM investigators had connected the faulty ignition switch to car power loss, they may have addressed the safety defect before injuries and fatalities occurred (p. 33 of the Report).

**Response:** GM LLC admits the allegations in Request No. 49 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that the Valukas Report, which relates to vehicles subject to GM Recall Nos. 13454 and 14063, states that “Had GM personnel connected the dots and understood how their own cars were built, they might have addressed the safety defect before injuries and fatalities occurred.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key

systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

50. Valukas found that efforts to fix the ignition switch issue were impaired by the initial mislabelling of the issue as one of “customer convenience” (p. 2 of the Report).

**Response:** GM LLC admits the allegations in Request No. 50 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s responses to Request Nos. 7 and 11. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

51. Valukas concluded that DeGiorgio’s misleading statements contributed to confusion about why airbags in cars that were equipped with the faulty ignition switch were not properly deploying (p. 3 of the Report).

**Response:** GM LLC admits that the allegations in Request No. 51 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s responses to Request Nos. 35 and 36. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

52. Overall, the Valukas Report concluded that during the 11 years that GM failed to address the ignition switch issue, there was no demonstrated sense of urgency on the part of GM to properly address the issue, including no timetables, no demands for action, and constant delays to gather yet more information (p. 4 of the Report).

**Response:** GM LLC admits the allegations in Request No. 52 attempt to paraphrase portions of the Valukas Report that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that the Valukas Report, which relates to vehicles subject to GM Recall Nos. 13454 and 14063, states that “Throughout the entire 11-year odyssey, there was no demonstrated sense of urgency, right to the very end. The officials overseeing the potential fixes and investigations did not set timetables, and did not demand action.” Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

### **Hearings before the U.S. Senate and House of Representatives**

53. On April 2, 2014, Barra attended a hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation, United States Senate (“April 2, 2014 Hearing”).

**Response:** GM LLC admits the truth of the facts in Request No. 53.

54. A transcript of the April 2, 2014 Hearing was published, entitled “Examining the GM Recall and NHSTA’s [sic] Direct Investigation Process” (“April 2 transcript”).

**Response:** GM LLC admits the truth of the facts in Request No. 54, with the clarification that the abbreviation for the National Highway Traffic Safety Administration is “NHTSA.”

55. On June 18, 2014, Valukas and Barra attended a hearing before the Subcommittee On Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives (“June 18, 2014 Hearing”).

**Response:** GM LLC admits the truth of the facts in Request No. 55.

56. A transcript of the June 18, 2014 Hearing was published, entitled “The GM Ignition Switch Recall: Investigation Update” (“June 18 transcript”).

**Response:** GM LLC admits the truth of the facts in Request No. 56.

57. At the June 18, 2014 Hearing, Barra noted that the Valukas Report is “extremely thorough, brutally tough, and deeply troubling. It paints a picture of an organization that failed to handle a complex safety issue in a responsible way” (p. 11 of the June 18 transcript).

**Response:** GM LLC admits the truth of the facts in Request No. 57.

58. Barra also stated that Valukas presented his findings to the GM Board of Directors (p. 11 of the June 18 transcript).

**Response:** GM LLC admits the truth of the facts in Request No. 58.

59. Senator McCaskill of Missouri noted before the U.S. Senate that GM knew of the faulty switch in 2004, knew in 2005 that the ignition switch issue was causing airbags to not deploy, and knew by late 2005 that someone had died as a result of the faulty ignition switch and airbag issue (p. 3 of the April 2 transcript).

**Response:** GM LLC admits that the allegations in Request No. 59 attempt to paraphrase portions of Senator McCaskill's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: In July 2005, just months after Old GM closed its first engineering inquiry into the defective switch, a 16-year-old driver died in Maryland when the airbags in her 2005 Cobalt failed to deploy. The power mode status recorded for that vehicle at the time of the crash was "Accessory." Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

60. GM engineers changed the faulty ignition switch part some time in 2006 or as late as 2007, but did not record the part number change (pp. 4 and 9 of the April 2 transcript).

**Response:** GM LLC admits the allegations in Request No. 60 attempt to paraphrase portions of David Friedman's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

61. DeGiorgio, who held the title of “design release engineer”, had responsibility for key decisions to approve use of the defective switch in 2002, and to modify the switch in 2006 (p. 52 of June 18 transcript).

**Response:** GM LLC admits the allegations in Request No. 61 attempt to paraphrase portions of Representative Janice Schakowsky’s statements made during the June 18, 2014 Hearing that related to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s responses to Request Nos. 31 and 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

62. DeGiorgio signed a document on April 26, 2006 approving the ignition switch part change (p. 31 of the April 2 transcript and p. 52 of the June 18 transcript).

**Response:** GM LLC admits the truth of the facts in Request No. 62 as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC’s response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

63. This document was not produced by GM to the lawyer representing the family of Brooke Melton, an individual killed when her GM automobile crashed and a faulty ignition switch stopped her airbags from deploying (p. 32 of the April 2 transcript).

**Response:** GM LLC admits that the allegations in Request No. 63 attempt to paraphrase portions of Senator McCaskill's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: GM LLC did not produce the April 26, 2006 document approving the ignition switch part change in response to discovery requests from the attorney representing the Melton family. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

64. Under oath, DeGiorgio was repeatedly asked about the ignition switch part change (p. 32 of the April 2 transcript).

**Response:** GM LLC admits the allegations in Request No. 64 attempt to paraphrase portions of Senator McCaskill's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 36. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

65. Under oath, DeGiorgio repeatedly denied that he had knowledge of the ignition switch part change (p. 32 of the April 2 transcript).

**Response:** GM LLC admits the allegations in Request No. 65 attempt to paraphrase portions of Senator McCaskill's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 36. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

66. The U.S. Senate referred to DeGiorgio's denial under oath as perjury (p. 32 of the April 2 transcript).

**Response:** GM LLC admits that the allegations in Request No. 66 attempt to paraphrase portions of Senator McCaskill's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's responses to Request Nos. 35 and 36. Beyond this, GM LLC denies that the statement referred to was adopted by the entire US Senate, and denies the Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

67. Valukas found that DeGiorgio's denial and withholding of vital information about the ignition switch part change caused severe delays for investigators (p. 20 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 67 attempt to paraphrase portions of Anton Valukas' written testimony made during the June 18, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's responses to Request



Nos. 35, 36, 46-48, and 52. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

68. The U.S. House of Representatives noted that GM discovered that DeGiorgio had changed ignition switch parts without properly documenting it, it still took GM 10 months to initiate a Cobalt recall (p. 21 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 68 attempt to paraphrase portions of Anton Valukas' written testimony made during the June 18, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's responses to Request Nos. 35, 36 and 45. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

69. From 2011, Barra was executive vice president of global product development (p. 5 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 69 attempt to paraphrase portions of Representative Diana DeGette's statements made during the June 18, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that in February 2011, Mary Barra became executive vice president of global product development. Beyond this, GM LLC denies the remaining allegations in the Request.

70. From 2011, GM staff responsible for vehicle safety reported either directly to Barra, or ultimately to Barra through a chain of command (p. 5 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 70 attempt to paraphrase portions of Representative DeGette's statements made during the June 18, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that since February 2011, certain personnel involved in vehicle safety issues reported to Ms. Barra as direct reports, and others have reported to Ms. Barra indirectly. Beyond this, GM LLC denies the remaining allegations in the Request.

71. At least one high-level executive who was working on the ignition switch solution reported directly to Barra (p. 5 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 71 attempt to paraphrase portions of Representative DeGette's statements made during the June 18, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits that during Ms. Barra's tenure as executive vice-president of global product development, at least one executive who was involved in the Cobalt airbag non-deployment investigation reported directly to her. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

72. The cost to repair each faulty ignition switch would have been \$2, as noted in Senator Edward Markey's statement (p. 29 of the April 2 transcript).

**Response:** GM LLC admits that the allegations in Request No. 72 attempt to paraphrase portions of Senator Edward Markey's statements made during the April 2, 2014 Hearing that relate to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: an attachment to Old GM PRTS report N172404 states that the "cost estimate to change the vehicle key for the Cobalt" would be \$70,000 for tooling for a new key head, \$400,000 to modify production assembly equipment, and a piece price increase of \$0.50 per vehicle, and would have an estimated timing of 20 weeks. Beyond this, GM LLC denies the remaining allegations in the Request and denies the Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

73. From February 2014 until the June 18, 2014 Hearing, GM recalled "tens of millions" of cars (p. 36 of the June 18 transcript).

**Response:** GM LLC admits that the allegations in Request No. 73 attempt to paraphrase portions of the June 18, 2014 transcript related to vehicles subject to GM Recall Nos. 13454 and 14063. GM LLC admits that it issued six ignition switch or key rotation recalls in 2014 which, according to its letters to NHTSA pursuant to 49 C.F.R. § 573.6, covered approximately 13,128,320 vehicles manufactured and sold in the United States by GM LLC or by Old GM. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

**U.S. Deferred Prosecution Agreement, September 16, 2015**

74. On September 17, 2015, the United States District Court, Southern District of New York filed a claim, submitted by the U.S. Government, seeking GM's forfeiture of \$900,000,000.

**Response:** GM LLC admits the truth of the facts in Request No. 74 as they relate to General Motors Company and vehicles subject to GM Recall Nos. 13454 and 14063.<sup>2</sup> Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

75. The probable cause for this forfeiture, as listed in the September 17, 2015 claim, is a September 16, 2015 Deferred Prosecution Agreement between the U.S. government and GM (the "Deferred Prosecution Agreement").

**Response:** GM LLC admits that the allegation of probable cause was made as indicated in Request No. 75 in relation to General Motors Company and vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

76. The Deferred Prosecution Agreement was as follows:

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<sup>2</sup> GM LLC denies the existence of a Model Year 2005 Pontiac G5 and the existence of a Model Year 2006 Pontiac G5 referenced in Exhibit C to the Deferred Prosecution Agreement, Para. 4, but otherwise admits the truth of the Statement of Facts.

a) GM consented to being charged with one count of engaging in a scheme to conceal the deadly Ignition Switch Defect from its U.S. regulator (p. 1 of the Deferred Prosecution Agreement);

**Response:** GM LLC admits that General Motors Company consented to the filing of a two-count Information in the United States District Court for the Southern District of New York, charging General Motors Company with engaging in a scheme to conceal a deadly safety defect related to GM Recall Nos. 13454 and 14063 from its U.S. regulator, in violation of Title 18, United States Code, Section 1001, and committing wire fraud, in violation of Title 18, United States Code, Section 1343. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

b) GM consented to being charged with one count of committing wire fraud by defrauding U.S. consumers into purchasing its products by means of concealing information and making misleading statements about the safety of vehicles equipped with the Ignition Switch Defect (pp. 1 and 2 of the Deferred Prosecution Agreement);

**Response:** GM LLC admits that General Motors Company consented to the filing of a two-count Information in the United States District Court for the Southern District of New York, charging General Motors Company with engaging in a scheme to conceal a deadly safety defect related to GM Recall Nos. 13454 and 14063 from its U.S. regulator, in violation of Title 18, United States Code, Section 1001, and committing wire fraud, in

violation of Title 18, United States Code, Section 1343. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

c) GM admitted that it failed to disclose to its U.S. regulator and the public the Ignition Switch Defect, a potentially lethal safety defect that caused airbag non-deployment in certain GM model cars (p. 2 of the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: from in or about the spring of 2012 through in or about February 2014, GM LLC failed to disclose a deadly safety defect to its U.S. regulator, the National Highway Traffic Safety Administration (“NHTSA”). It also falsely represented to consumers that vehicles containing the defect posed no safety concern. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

d) GM admitted that it misled consumers about the safety of GM cars afflicted by the Ignition Switch Defect (p. 2 of the Deferred Prosecution Agreement); and

**Response:** GM LLC denies the Request as phrased, but see GM LLC’s response to subpart (c), above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition

switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

e) GM agreed to pay \$900 million to the United States, representing the proceeds of the conduct as described in this paragraph (p. 2 of the Deferred Prosecution Agreement).

**Response:** GM LLC admits the truth of the facts in Request No. 76, subpart (e), as they relate to General Motors Company and vehicles subject to GM Recall Nos. 13454 and 14063 described in the Information and Statement of Facts<sup>3</sup> (attached as Exhibit C to the Information). Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

77. As part of the Agreement, GM admitted and agreed to certain facts, mainly that:

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<sup>3</sup> For the purposes of the Statement of Facts, to the extent any conduct, statement, actions, or documents occurred on or are dated before July 10, 2009, references to “GM” shall mean and are intended to mean solely “Motors Liquidation Company,” previously known as General Motors Corporation (“Old GM”). Although New GM in the Statement of Facts admits certain facts about Old GM’s acts, conduct, or knowledge prior to July 10, 2009 based on New GM’s current knowledge, New GM does not intend those admissions to imply or suggest that New GM is responsible for any acts, conduct or knowledge of Old GM, or that such acts, conduct, and knowledge of Old GM can be imputed to New GM. The Statement of Facts is not intended to alter, modify, expand, or otherwise affect any provision of the July 5, 2009 Sale Order that was issued by the U.S. Bankruptcy Court for the Southern District of New York, or the rights, protections, and responsibilities of New GM under the Sale Order.

a) in or about the spring of 2012 through in or about February 2014, GM failed to disclose a deadly safety Ignition Switch Defect to the U.S. National Highway Traffic Safety Administration (“NHSTA” [sic]) (p. 1 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (a), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

b) GM falsely represented to consumers that vehicles containing the Ignition Switch Defect posed no safety concerns (p. 1 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but see GM LLC’s response to Request No. 76(c). Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

c) before the defective ignition switches went into production in 2002, certain GM engineers knew of the Ignition Switch Defect (p. 2 of Exhibit C to the Deferred Prosecution Agreement);



**Response:** GM LLC denies the Request as phrased. GM LLC admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: Before the defective switch went into production in 2002, certain Old GM engineers knew that it was prone to movement out of the Run position; testing of a prototype showed that the torque return between the Run and Accessory positions fell below Old GM's own internal specifications. But the engineer in charge of the defective switch approved its production anyway. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

d) the GM engineer in charge of the Defective Switch approved its production, despite knowing of the Ignition Switch Defect (p. 2 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but see GM LLC's response to Request No. 77(c). Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

e) in or about 2004 and 2005, GM rejected a simple improvement to the head of the key that would have significantly reduced unexpected shutoffs at a price of less than a dollar a car (p. 2 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (e), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

f) from approximately the spring of 2012, GM personnel knew that the Defective Ignition Switch presented a safety defect that could cause airbag non-deployment associated with serious injury and death (p. 2 of Exhibit C to the Deferred Prosecution Agreement)

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (f), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

g) in a context of a five-day regulatory reporting requirement, GM first notified the NHTSA and the public about 20 months after GM knew about the connection between the Ignition Switch Defect and fatal airbag non-deployment incidents (p. 2 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (g), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092,

14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

h) on at least two occasions while the Ignition Switch Defect was well known by some within GM but not disclosed to the public or NHTSA, certain GM personnel made incomplete and therefore misleading presentations to NHTSA assuring that GM would and did act promptly, effectively and in accordance with its formal recall policy to respond to safety problems, including airbag-related safety devices (p. 2 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (h), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

i) GM not only failed to disclose the Ignition Switch Defect but also actively touted the reliability and safety of cars equipped with the Ignition Switch Defect with a view to promoting sales of used GM cars (p. 3 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: for much of the period during which GM LLC failed to disclose this safety defect, it not only failed to correct its June 2005 assurance that the defective switch posed no safety concern but also actively touted the reliability and safety of cars equipped with the defective switch, with a view to promoting sales of used

GM cars. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

j) in early 2001 and early 2002, an engineer of GM was informed by the supplier of the switch, who was in charge of testing and manufacturing the component, that the ignition switch was not meeting the torque specification (p. 5 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (j), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

k) this fact was confirmed by the supplier of the switch in an email to GM in early 2002 (p. 5 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: in email correspondence between the switch DRE and the switch supplier in early 2002, the switch supplier confirmed that an early version of the switch was not meeting the torque specification. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092,

14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

l) in response to this, the GM engineer stated in the email that he was “tired of the switch from hell” and did not want to either compromise the electrical performance of the switch or slow the production schedule (p. 5 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (l), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

m) the GM engineer directed the supplier of the switch to “maintain present course” notwithstanding that there was “still too soft of a detent” (p. 5 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (m), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

n) in April 2006, the GM engineer authorized the replacement of the Ignition Switch Defect with a non-defective switch (p. 8 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (n), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

o) the GM engineer directed that this change be implemented without a corresponding part number change (p. 8 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (o), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

p) as a result of not noting the part number change, no one looking at the switch was able, without taking it apart, to tell the difference between the switch that was defective and the non-defective switch (p. 8 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (p), as they relate to Old GM and vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to Request No. 35. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

q) despite the regulatory requirement that all safety defects be reported to NHTSA within five days of discovering them, GM did not notify NHTSA and the public about the Ignition Switch Defect until February 2014, about 20 months after GM knew about the connection between the Ignition Switch Defect and fatal airbag non-deployment incidents (p. 15 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (q), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. See also GM LLC's response to subpart (g), above. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

r) on October 22, 2012, while the Ignition Switch Defect was well known by some within GM but not disclosed to the public or NHTSA, certain GM personnel made incomplete and

therefore misleading presentations to NHTSA assuring that GM would and did act promptly, effectively and in accordance with its formal recall policy to respond to safety problems, including airbag-related safety devices (p. 15 of Exhibit C to the Deferred Prosecution Agreement);

**Response:** GM LLC denies the Request as phrased, but see GM LLC's response to Request No. 77(f), (h). GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: On October 22, 2012, certain GM LLC personnel met with NHTSA officials in Washington, D.C., and gave a description of the Company's recall process intended to assure the regulator that safety issues were routinely addressed in a methodical and efficient fashion. According to individuals who attended this meeting and others in 2012 and 2013, GM LLC gave the impression that its recall process was linear, robust, uniform, and prompt. To the extent this presentation may have accurately described GM LLC's general recall process and handling of other defects, it did not accurately describe GM LLC's handling of the defective switch. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

s) in or about October 2012 and November 2013, GM personnel gave presentations to NHTSA in which they touted the robustness of GM's internal recall process and gave the misleading impression that GM worked promptly and efficiently to resolve known safety defects, including defects related to airbag non-deployment (pp. 15 and 18 of Exhibit C to the Deferred Prosecution Agreement);



**Response:** GM LLC denies the Request as phrased, but see GM LLC’s response to Request No. 77(r). GM LLC further admits as related to vehicles subject to GM Recall Nos. 13454 and 14063: On November 7, 2013, certain GM LLC personnel met with NHTSA to give a more in-depth presentation targeted at assuring the regulator that GM LLC was “responsive” and “customer focused” when it came to safety concerns. Although the presentation did not specifically address the defective switch-related airbag non-deployment problem—which, having just entered the recall process within GM LLC, remained unknown to NHTSA—it did address concerns related to airbag non-deployment more generally and suggested that certain airbag defects that presented with a failure to warn the driver and/or certain other aggravating factors would be recalled swiftly. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

t) GM did not recall the vehicles equipped with the Defective Ignition Switch until February 2014 (p. 20 of Exhibit C to the Deferred Prosecution Agreement).

**Response:** GM LLC admits the truth of the facts in Request No. 77, subpart (t), as they relate to vehicles subject to GM Recall Nos. 13454 and 14063. Beyond this, GM LLC denies this Request to the extent it applies to vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 because the ignition switch and key systems in vehicles subject to GM Recall Nos. 14092, 14299, 14350, 14172, and 14294 are not substantially similar to that in vehicles subject to GM Recall Nos. 13454 and 14063.

**Paragraphs of Request to Admit Requesting Authentication of Documents**

1. “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls” dated May 29, 2014 by Anton R. Valukas of Jenner & Block.

**Response:** GM LLC admits that the document attached as Schedule A to the Request to Admit is an authentic copy of the Valukas Report, except that it contains a number of redactions.

2. “Examining the GM Recall and NHSTA’s [sic] Direct Investigation Process”, Hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance, of the Committee on Commerce, Science, and Transportation, United States Senate, One Hundred Thirteenth Congress, Second Session, dated April 2, 2014.

**Response:** GM LLC refuses to admit the authenticity of the document. GM LLC admits that there was an April 2, 2014, hearing before the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation, United States Senate that related to vehicles subject to GM Recall Nos. 13454 and 14063. However, GM LLC has no basis to assess the authenticity of the document attached as Schedule B to the Request to Admit.

3. “GM Ignition Switch Recall: Investigation Update”, Hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, One Hundred Thirteenth Congress, Second Session, dated June 18, 2014.

**Response:** GM LLC refuses to admit the authenticity of the document. GM LLC admits that there was a June 18, 2014 hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, United States House of Representatives that related

to vehicles subject to GM Recall Nos. 13454 and 14063. However, GM LLC has no basis to assess the authenticity of the document attached as Schedule C to the Request to Admit.

4. U.S. District Court, Southern District of New York September 17, 2015 document, numbered 1:15-cv-07342, enclosing the September 16, 2015 Deferred Prosecution Agreement, enclosed as Schedule D is a copy of the original U.S. District Court document with original attachments and schedules.

**Response:** GM LLC admits the authenticity of the document.

February 12, 2018

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NICHOLAS BAKER and others  
Plaintiffs

-and-

GENERAL MOTORS LLC and others  
Defendants

Court File No. CV-14-502023-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

**RESPONSE TO REQUEST TO ADMIT**

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General Motors of Canada Limited (now known as General  
Motors of Canada Company)

## AGREEMENT

This agreement (the "Agreement") memorializes the agreement between Counsel for the Estate of Nicholas Baker, Suzanne Baker, and Daniel Baker ("Plaintiff Counsel") and Delphi Automotive PLC (collectively with its subsidiaries, "Delphi" and, together with Plaintiff Counsel, the "Parties").

Recitals

WHEREAS, Plaintiff Counsel commenced the putative class action *Baker et al. v. General Motors LLC, et al.*, CV-14-502023-00CP (the "Action") on behalf of their clients seeking damages and other relief related to alleged defects in the ignition system (the "Ignition System") of certain General Motors ("GM") automobiles as set forth in the Action;

WHEREAS, the Action names Delphi Automotive PLC as a defendant;

WHEREAS, certain entities that ultimately merged into DPH Holdings Corp. (collectively, the "DPH Predecessors") assisted in the design and manufacture of ignition switches incorporating a Delta spring, and these switches were either used in the initial assembly of, or may have been used as a replacement part in, the Ignition System for certain of the GM vehicle models at issue in the Action (the "DPH Ignition Switches"), which models are highlighted in bolded italics in Tab #01<sup>1</sup>;

WHEREAS, the DPH Predecessors filed for bankruptcy protection in October 2005 and, after emergence from Chapter 11 proceedings in October 2009, were merged into DPH Holdings Corp. ("DPH"), a company that is in liquidation in Delaware state court;

WHEREAS, the Delphi entities that acquired the assets of the DPH Predecessors did not come into existence until, at the earliest, August 2009, after all the DPH Ignition Switches used by GM in the subject car models had been made;

WHEREAS, in addition to the foregoing, based on reasonable investigation, Delphi can demonstrate that the DPH Ignition Switches were made as directed and approved by GM using the weaker Delta spring and plunger, instead of the stronger Catera spring and plunger the DPH Predecessors had proposed using;

WHEREAS, Delphi asserts the DPH Predecessors were directed by GM in 2006 to begin using the stronger Catera spring and plunger (thereby increasing the torque needed to move the switch from run to accessory), which the DPH Predecessors had proposed using in 2002, but also were advised by GM that it did not plan to change the GM part number for the switch;

WHEREAS, even though later model vehicles were factory installed with the ignition switch containing the Catera spring and plunger, those vehicles were included in the GM recall and listed in bolded italics in Tab #01 because such later model vehicles could have been repaired at some

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<sup>1</sup> The ignition switches used in automobiles listed in Tab #01 that are not in bolded italics were not manufactured by the DPH Predecessors.

point using a DPH Ignition Switch (i.e., a switch containing the Delta spring and plunger) due to the lack of any difference in GM part number between the two switch designs;

WHEREAS, the only ignition switch ever manufactured by Delphi for the Ignition System is the ignition switch using the stronger Catera spring and plunger, and that is the switch that GM ordered from Delphi in 2014 as the replacement switch for the model cars involved in the recalls of those models;

WHEREAS, in light of the foregoing facts, even if plaintiffs could overcome Delphi's defenses based on the bankruptcy court order and defenses based on the lack of successor liability, plaintiffs would need to demonstrate, among other matters, that the DPH Predecessors could be liable as a component part manufacturer when the DPH Ignition Switches were made as directed and approved by GM;

WHEREAS, in October 2014, Lead Counsel for the General Motors LLC Ignition Switch MDL (the "U.S. Lead Counsel") and Delphi entered into a cooperation agreement substantially similar to the terms of this Agreement regarding individual and class actions related to the Ignition Systems commenced in the United States;

WHEREAS, Plaintiff Counsel have discussed the matter of releasing Delphi from the Canadian litigation with U.S. Lead Counsel;

WHEREAS, Delphi has agreed to assist Plaintiff Counsel, informally and outside the discovery process, in understanding the developmental and technical aspects of the Ignition System issues involved in the Action (specifically as it relates to the DPH Ignition Switch) under the terms below, in return for Plaintiff Counsel dismissing Delphi from the Action; and

WHEREAS, based on their investigation, Plaintiff Counsel have concluded that Delphi's reasons why it should not be a defendant in the Action have sufficient merit that it is consistent with their professional obligations to dismiss Delphi from the Action insofar as Delphi's informal assistance will potentially lead to a more just, speedy, and inexpensive resolution of the Action;

#### Agreements

Now, therefore, the Parties agree to the following:

1. Delphi will provide truthful information concerning the design, development, testing, research, manufacture of, and subsequent modifications to, the DPH Ignition Switch, and to the extent known, the Ignition System in which the DPH Ignition Switch was incorporated. Requests for information from Delphi shall be reasonable in number, scope, and with adequate notice as to what information is being requested.
2. Any information Delphi provides will be kept confidential by Plaintiff Counsel and only disclosed to third party consultants retained to assist Plaintiff Counsel in the Action provided those consultants agree to keep the information confidential. Plaintiff Counsel shall not disclose the information Delphi provides, including filing it in the Action, unless a protective order is issued in the Action which is substantially similar to that entered in the U.S. MDL and attached as Tab #02.

3. Insofar as the information in Delphi's possession is contained in non-privileged documents, the documents will be provided by Delphi, giving priority to categories to be agreed upon. The same documents that have been provided, and will be provided, to the U.S. Lead Counsel will also be provided to the Plaintiff Counsel.
4. Delphi will assist in facilitating meetings with certain fact witnesses who were involved in the development and/or manufacturing of the DPH Ignition Switch (the "Fact Witnesses") for informal interviews. The Parties recognize, however, that several of the Fact Witnesses are not, and never were, Delphi employees and are not obligated to cooperate. Delphi represents, however, that certain of what it believes to be key Fact Witnesses have expressed willingness to assist Delphi with its investigation of the facts and defense of the Actions. Requests for Delphi's assistance in facilitating meetings with Fact Witnesses shall be reasonable in number, scope, and with sufficient notice to allow for scheduling.
5. Fact Witnesses may have independent counsel present in addition to Delphi counsel. The Parties recognize that Fact Witnesses have other responsibilities and commitments that will be respected.
6. No Fact Witness, Delphi-associated witness, or witness that Delphi identifies as someone with knowledge of facts related to the DPH Ignition Switch will be contacted by Plaintiff Counsel; all such contacts will be directed to Delphi's counsel and such witnesses' personal counsel, if any.
7. A current Delphi employee with technical expertise of the Ignition System will assist in informal meetings to "decode" the technical documents, explain relevance, and provide general technical information within his knowledge. This will not include any requirement for additional expert evaluation unless agreed upon. This technical employee will be considered a non-testifying expert and will not be examined absent Delphi's agreement. If Delphi presents the technical employee as a testifying expert, Plaintiff Counsel agree that he will not be subject to cross examination based on work that he has done pursuant to this Agreement and will obtain the agreement to this condition from any plaintiffs' counsel prior to sharing with such counsel information obtained under this Agreement, to the extent such sharing is permitted by paragraph 2.
8. None of the information supplied by the technical employee or in any witness interviews will be considered by Plaintiff Counsel to be a waiver of Delphi's solicitor-client or litigation privilege.
9. If examinations of the Fact Witnesses take place, Plaintiff Counsel may submit areas of questioning in advance to assist with their preparation.
10. Plaintiff Counsel will use all reasonable efforts to avoid having Fact Witnesses and present and former Delphi employees examined on more than one occasion.
11. Delphi may appear, through counsel, at any examination in the Action, and similarly may appear at any hearing or other proceeding in the Action.



12. If a Fact Witness incurs expenses or loses time from work (e.g., using vacation days or losing pay) to be examined at Plaintiff Counsel's request, Plaintiff Counsel will reimburse the Fact Witness for any such reasonable expense or loss of compensation. Generally no other payments to Fact Witnesses will be made except for reasonable expenses incurred in travel and the like in connection with assisting Plaintiff Counsel.
13. For their part, Plaintiff Counsel agree that they will dismiss Delphi from the Action and not name any Delphi entity in the Action or any other action related to Ignition System-related claims in the future except in accordance with this Agreement.
14. Plaintiff Counsel recognize the information they expect to obtain from Delphi, and the informal way it is being provided is valuable. Plaintiff Counsel also recognize Delphi is willing to enter into this Agreement because it expects it will reduce or eliminate the burden of defending claims being asserted against it. Plaintiff Counsel therefore agree they will take reasonable steps to be sure they and others who obtain this information under this Agreement do not share such information with counsel (and their representatives) who have not agreed to refrain from pursuing Ignition System-related actions against Delphi and to abide by the terms of this Agreement. Nothing in this paragraph is intended to limit the ability of Plaintiff Counsel to use the information they obtain from Delphi in the prosecution of the Action against parties other than Delphi, and Plaintiff Counsel may use their best judgment in how to most effectively do so. By way of example, Plaintiff Counsel may use the information, subject to the restrictions of the protective order contemplated in paragraph 2, to prepare for trial, to use with experts, to examine and cross-examine witnesses before or at trial, and in pleadings and other papers.
15. Plaintiff Counsel members personally and through their designees also agree to assist Delphi in persuading other plaintiffs' counsel in any action, (i) not to pursue Ignition System-related claims against Delphi and (ii) to dismiss Delphi from any pending action alleging Ignition System-related claims.
16. Plaintiff Counsel reserve the right to further amend the Action to name Delphi as a defendant in the event Plaintiff Counsel receive new information demonstrating Delphi's liability for Ignition System-related claims. Before exercising these rights, Plaintiff Counsel agree that they will meet and confer with Delphi and allow Delphi a reasonable opportunity to respond to any allegations that Plaintiff Counsel deem sufficient to give rise to the exercise of such rights. If Plaintiff Counsel or any members thereof (including their respective law firms) name Delphi as a defendant in any action alleging Ignition System-related claims, they agree to allow Delphi adequate time to prepare its defence.
17. If Plaintiff Counsel pursue a DPH Ignition Switch-related action against Delphi (whether or not pursuant to paragraph 16) or Delphi violates the terms of this Agreement, then, this Agreement can be terminated and the Parties shall have no further obligations under this Agreement; provided, however, that in the event of any termination of this Agreement for any reason, the agreements contained herein regarding confidentiality, use of information obtained in interviews of Fact Witnesses (paragraph 7 above), tolling provisions of paragraph 22, and the obligations of paragraph 16 above will continue in effect. The Parties agree to meet and confer before any party withdraws from this Agreement.

18. Nothing in this Agreement is intended to or shall be construed as limiting Delphi's defences to any claim in any action that may be asserted against it, all of which are reserved.
19. Plaintiff Counsel and Delphi agree and represent that no inducement has been offered to enter into this Agreement except those recited herein.
20. The Parties recognize that there may be other needs and interests that are not memorialized in this Agreement, but that are consistent with the Parties' interests in entering into it. Each Party agrees that it will work in good faith to meet the reasonable needs of the other in ways that are consistent with its legal and ethical obligations. If disagreements about the interpretation of this Agreement arise or there are claims of breach, then the Parties each agree to meet and confer in good faith in an attempt to resolve their disagreements.
21. Although the Parties do not anticipate the need to seek judicial enforcement of the agreements in this Agreement, if such proceedings are brought, then any provisions in the Agreement that are deemed to be unenforceable shall be severed and disregarded, unless such severance defeats the purpose of the Agreement. Any violation of the terms of this Agreement that also violates an order of the court presiding over the Action may also be enforced in that court. Any judicial action to enforce this Agreement shall be brought in the Ontario Superior Court of Justice.
22. In consideration of Plaintiff Counsel's agreement to the terms hereof, Delphi agrees to toll and extend any statutes of limitation or similar time-bars to filing suit that have not previously expired by six months, from December 15, 2014 to and until June 15, 2015.
23. Except in any proceeding to enforce its terms, this Agreement shall not be introduced into evidence at any trial or proceeding for any purpose whatsoever. Neither the recitals nor the agreements herein are intended as a full or complete recitation of the facts or the law. Rather, this Agreement is the product of a confidential settlement discussion and the result of joint efforts of the Parties to memorialize their own understandings. It is the Parties' intent and understanding that this Agreement is without prejudice to any legal or factual contention in any action or any other proceeding. To the extent this Agreement is used in any way, it is agreed and understood that it was drafted jointly by the Parties and may not be construed against either of them because such Party may have initially drafted some or all of the provisions at issue.

24. Notices sent under this agreement shall be sent to the following:

<u>Plaintiff Counsel</u>	<u>Delphi</u>
Joel P. Rochon Suzanne E. Chiodo Rochon Genova LLP Suite 900, 121 Richmond Street West Toronto, ON M5H 2K1 Tel: 416-363-1867 Fax: 416-363-0263 Email: <i>jrochon@rochongenova.com</i> Email: <i>schiodo@rochongenova.com</i>	Joseph E. Papelian Delphi Legal Staff 5725 Delphi Drive Troy, MI 48098 Tel: 248-813-2535 Fax: 248-813-3251 Email: <i>joseph.e.papelian@delphi.com</i>
Bryan P. Delaney Russel A. Molot Delaney's Law Firm 543 Somerset Street West Ottawa, ON K1R 5Z9 Tel: 613-233-7000 Fax: 866-846-4191 Email: <i>bryan@delaneys.ca</i> Email: <i>russ@delaneys.ca</i>	Jeffrey Leon Emrys Davis Bennett Jones LLP Suite 3400, One First Canadian Place Toronto, ON M5X 1A4 Tel: 416-863-1200 Fax: 416-863-1716 Email: <i>leonj@bennettjones.com</i> Email: <i>davise@bennettjones.com</i>
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**DELPHI AUTOMOTIVE PLC**

By: \_\_\_\_\_  
 Joseph E. Papelian  
 Delphi Automotive PLC

Date: \_\_\_\_\_

Plaintiff Counsel for the General Motors LLC Ignition Switch Litigation

By:  \_\_\_\_\_

Joel P. Rochon  
Rochon Genova LLP and on behalf of  
the Plaintiffs

Date: 12 December 2014

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER, DANIEL BAKER, JUDY HANSEN, STACEY GREEN AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF AMANDA OBERSKI**

I, Amanda Oberski, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a proposed Representative Plaintiff for this action. Accordingly, I have personal knowledge of the facts hereinafter deposed to and which I believe to be true. Where I have been informed of the facts to which I depose, I have stated the source of my information and belief, and I confirm that I believe such facts to be true.
2. I swear this affidavit in support of a motion to certify this action as a class proceeding in the Ontario Superior Court of Justice.

### **My Personal Circumstances**

3. I was born on May 30, 1989, and currently reside in Toronto, Ontario. At the time of the accident which forms the basis of my claim, I was a twenty-year-old undergraduate student at the University of Michigan, and during the summer I volunteered as a Parliamentary intern in Ottawa, Ontario.

### **The Accident**

4. On May 27, 2010, I intended to drive my 2006 Chevrolet Cobalt, bearing VIN # 1G1AK1GF867834902 (the “Cobalt”), from Ottawa to Toronto. The Cobalt was purchased in Michigan by my father, Edward Oberski, on or about September 10, 2009. My family had leased the Cobalt for approximately three years prior to purchase.

5. My key was connected to a keychain which had several other keys on it, as well as decorative metal charms.

6. At approximately 2:39 pm that day, as I was traveling the speed limit of 100 km/h in the westbound lanes of Highway 401 near Brockville, Ontario, it became extremely difficult to control the Cobalt. This difficulty occurred suddenly and without warning. Unable to safely bring the Cobalt to a stop, I swerved, lost control of the Cobalt and rolled several times across two lanes of traffic (the “Accident”).

7. The Cobalt was equipped with a factory-installed airbag designed to deploy upon any forward motion impact, but that airbag system completely failed to deploy in the Accident. The police report from the Accident notes that I was wearing my seatbelt and was not under the influence of drugs or alcohol, and I was not charged as a result of the Accident. Attached hereto as **Exhibit “A”** are Ontario Provincial Police Motor Vehicle Accident Report in respect of my Accident.

### **My Post-Accident Injuries**

8. I was severely injured in the Accident. I broke my left arm and my right leg in numerous places. My right lung collapsed, and my left lung was contused. I had other soft tissue injuries throughout my body.

9. I was admitted to Kingston General Hospital from May 27 to June 9, 2010, where I underwent numerous surgeries. Attached hereto as **Exhibit "B"** is my Discharge Summary from the Kingston General Hospital dated June 9, 2010, which attaches the Operative Reports in respect of the surgeries I underwent. Attached hereto as **Exhibit "C"** is a picture of the stitches on my arms and legs following the surgeries I underwent in Kingston.

10. I was then airlifted to Covenant HealthCare in Saginaw, Michigan, where I was admitted until June 17, 2010. After my discharge from hospital, I received home nursing care for several months while I recovered from my injuries, and subsequently received physiotherapy for several more months. Attached hereto as **Exhibit "D"** are the Transfer Summary and the Discharge Summary provided by Covenant Healthcare. Attached hereto as **Exhibit "E"** is a Progress Note from the Covenant Outpatient Clinic in respect of the physiotherapy and home therapy, dated September 27, 2010.

11. Due to my injuries, I required significant assistance during the 2010-2011 school year, including the use of a mobility scooter, a leg brace and other disability assistance. Attached hereto as **Exhibit "F"** is a note from the Saginaw Valley Bone & Joint Center dated August 23, 2010 which details the disability assistance I required at the time.

12. As of 2015, my insurers have paid over USD\$130,000 for the medical treatment I required as a result of the Accident. Attached hereto as **Exhibit “G”** is a note from Health Plus medical insurer, dated July 10, 2014. Attached hereto as **Exhibit “H”** is a note from The Auto Club insurer dated July 10, 2014. However, these payments did not cover all of the expenses associated with my recovery, and my parents had to incur substantial out-of-pocket expenses as a result, in addition to taking time off work.

13. The injuries I sustained have had a severe and lasting impact upon my life, which continues to this day. I have large, visible scars on my arms, legs and torso. Metal plates remain implanted inside my body. I remain unable to walk up several flights of stairs, to walk long distances, to kneel without pain, or to run at all. Attached hereto as **Exhibit “I”** is a report of an orthopedic surgeon at the MedStar Washington Hospital Center, Department of Orthopaedic Surgery to whom I was referred for further follow up, dated July 15, 2014.

14. In respect of my condition, the surgeon writes: “The patient presents now for further evaluation. [...] She reports that she is not able to run or jump secondary to some pain, as well as to some weakness in the leg. She says that her worst pain is in her right knee. She states that she has pain if her legs remain dependent for any length of time. She has pain if she tries to kneel.”

15. In respect of my prognosis, the surgeon writes: “[the patient] is at an increased risk for arthritis in the future. At this point she may require either some sort of osteotomy to try to realign the joint to preferentially lower the medial aspect or if enough time passes and she is old enough, she could potentially just get a knee replacement.”



16. In July 2015, I underwent a reconstruction and graft surgery on my left knee. The surgery was performed at the Kaiser Permanente Medical Center in San Francisco. Although my left knee was not damaged in the Accident, it became worn down due to my reliance on this “healthy” knee. The surgery realigned the knee joint and replaced a destroyed tendon with a graft. This surgery was another direct consequence of the Accident.

17. I have been diagnosed with and continue to suffer from post-traumatic stress disorder (PTSD), for which I receive ongoing psychiatric treatment, including medication and regular psychotherapy. Attached hereto as **Exhibit “J”** is a note from the Psychiatry Department at The Permanente Medical Group Inc., confirming my diagnosis.\

18. AAA, my insurance carrier, considered the Cobalt totaled after the Accident. As a result, the Cobalt was not retained for inspection.

### **The Recall Notice**

19. On or about March 31, 2014, approximately four years after the Accident, I received a recall notice from the Defendants concerning my vehicle. I received other recall notices in April and June, 2014. The March and April recall notices state in part as follows:

There is a risk, under certain conditions, that your ignition switch may move out of the “run” position, resulting in a partial loss of electrical power and turning off the engine. The risk increases if your key ring is carrying more weight (such as more keys or the key fob) or your vehicle experiences rough road conditions or other jarring or impact related conditions. If the ignition switch is not in the run position, the air bags may not deploy if the vehicle is involved in a crash, increasing the risk of injury or fatality.

20. This was the first time I had ever received a warning about the Ignition Switch Defect, as that term is defined in the proposed Second Fresh as Amended Statement of Claim.

21. I am informed by Mr. Podolny, a lawyer at Rochon Genova LLP who is working on this action, that the defendants ultimately recalled over 30 million vehicles worldwide in respect of the Ignition Switch Defect, and that the defendants have admitted that the Ignition Switch Defect is responsible for hundreds of wrongful deaths. I am informed that over a million vehicles were recalled in Canada.

22. I believe that the Ignition Switch Defect caused the Accident. My family leased the Cobalt as a new vehicle, and nothing in its maintenance history or in our driving experience suggested any underlying defect or repair issue that could have caused the complete loss of control I experienced immediately prior to the Accident and the failure of the airbag system to deploy.

### **The Proposed Class Proceeding**

23. I am advised by Mr. Podolny that numerous Canadian actions were filed against the defendants following the recalls concerning the Ignition Switch Defect, and that Justice Perell ordered those actions consolidated into this consolidated claim on October 11, 2016. I understand that the Fresh as Amended Statement of Claim is the plaintiffs' current pleading in this consolidated claim.

24. I have reviewed the Fresh as Amended Statement of Claim and have discussed the proposed Second Fresh as Amended Statement of Claim with Mr. Podolny. I understand that these pleadings set out:

- a) the defendants' misconduct in designing, manufacturing, testing, monitoring, marketing, distributing, selling, and failing to warn about vehicles with the Ignition Switch Defect;
- b) the harms caused by the Ignition Switch Defect;
- c) the different legal claims or causes of action arising from these facts;
- d) the remedies sought as a result of the Ignition Switch Defect, including damages for wrongful death, severe personal injury, property loss, and economic loss such as diminution of value in affected vehicles and costs associated with repair of the Ignition Switch Defect.

18. I understand that we are seeking to certify this action as a class proceeding on behalf of the following three classes, as set out in the proposed Second Fresh as Amended Statement of Claim:

***Injury Class***

All persons in Canada who sustained injury or death in an accident while operating, or being transported in, a Class Vehicle, other than Excluded Persons.

***Owner / Lessee Class***

All persons and entities in Canada who were or are the registered owners and/or lessees of the Class Vehicles, other than Excluded Persons.

***Family Class***

All persons who on account of a personal relationship to an Injury Class member are entitled to assert a derivative claim for damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and

comparable provincial and territorial legislation, other than Excluded Persons.

19. “Class Vehicles” are all vehicles subject to recall for the Ignition Switch Defect.
20. I understand that a consortium of law firms including *Rochon Genova LLP* is prosecuting this action on behalf of the Class. I am advised by Mr. Podolny, and believe, that since this proceeding was commenced in 2014, the various firms comprising the consortium have been contacted by hundreds of putative Class Members, and that the consortium expects to be contacted by further Class Members throughout this proceeding.
21. I believe that the resolution of the common issues will substantially advance the litigation in Canada. I also believe that certification of this action would save considerable time, expense and resources of the parties and the Court. Following certification of the common issues, I understand that only individual causation and damages will remain.
22. I am advised by Mr. Podolny, and believe, that the cost of pursuing a case such as this to trial will be very costly. I believe that, if this action is not certified, few, if any, Class Members will commence individual actions, either because they cannot afford the legal costs of doing so, or because the legal costs of pursuing individual claims would outweigh the losses each have suffered, such that the individual actions would be uneconomical to pursue.
23. I would be unable to pay a lawyer to pursue my claim on an hourly basis. I am advised that the number of Class Vehicles exceeds a million. I believe that a class proceeding is the only means by which the Class Members will be able to gain access to justice for the defendants’ misconduct.
24. I am advised by Mr. Podolny that the Ontario Class Proceedings Fund, which provides financial support to approved class action plaintiffs for legal disbursements, has awarded funding to this case.

### Phases of a Class Action

25. Mr. Podolny has advised me of the three major phases (apart from any appeals) in a class action:

**Phase One** – Certification;

**Phase Two** – Trial of the common issues; and

**Phase Three** – Determination of individual issues including damages.

26. It is my understanding from Mr. Podolny that the three phases of this proceeding are comprised of the following steps:

- a) in **Phase One** of this proceeding, I am asking the court to certify the action as a class proceeding. I understand that I am seeking the court's approval to appoint me as one of the Representative Plaintiffs to prosecute this action on behalf of all Injury Class Members;
- b) cross-examinations on the certification affidavits will occur. I might be asked questions, under oath, by counsel for the Defendants about this action and my request to be appointed as one of the Representative Plaintiffs;
- c) the court will hear the certification motion and decide whether the action has met the requirements for certification, which I understand are set out in the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 ("CPA");
- d) if the court certifies the action as a class proceeding, notice of the certification order will be given to Class Members, who will be given the opportunity to opt-out of the class action within a fixed period of time as determined by the court;
- e) any Class Member who decides to opt-out will not be entitled to participate in any settlement or any award of damages made at any trial in this action;
- f) at certification, the court will also determine the common issues to be tried in this action. The common issues are the issues that will be decided on behalf of

all of the Class Members. All of the Class Members who do not opt-out will be bound by the court's determination of the common issues;

- g) in the event that this action is certified, prior to a trial of the common issues, the Defendants and all the Representative Plaintiffs must exchange affidavits of documents, listing all documents relevant to this action that are within our possession, power or control;
- h) examinations for discovery will be held, during which counsel for the Defendants will ask me questions. My counsel will ask questions of representatives of the Defendants;
- i) case management conferences will be held with the case management judge from time to time relating to various procedural and scheduling issues;
- j) in **Phase Two** of this proceeding if the action is not settled, there will be a trial of the common issues that will decide, among other things, whether either or both of the Defendants are liable for the conduct alleged in the Claim;
- k) determinations at the common issues trial will be binding on the Defendants and the Class;
- l) at the conclusion of the common issues trial, the court will decide whether damages, or any other relief, is to be awarded to the Class;
- m) in **Phase Three** of this proceeding, individual hearings, or court reference or individual assessments will be conducted to determine individual issues and awards of damages for the Class Members, if the court deems necessary;
- n) notice will be given to the Class Members to give them the opportunity to participate at this stage, if necessary;
- o) I understand that the case management judge may exercise his discretion to modify various aspects of this procedure before and/or after the certification of this action;

- p) at any stage, the class action may be settled, but only with court approval;
  - q) class counsel's fees will be deducted from any amount awarded to the Class, in accordance with the retainer agreement and subject to court approval; and
  - r) the court will also determine any costs that will be payable by the losing party.
27. As referenced above, there may be appeals or attempts to appeal launched by either side at various stages of this action.

### **My Role as Representative Plaintiff**

28. I understand that, in agreeing to seek and accept an appointment by the court as a Representative Plaintiff, it is my responsibility, among other things:
- a) to become familiar with the issues to be decided by the court;
  - b) to review the statement of claim and any amendments;
  - c) to assist counsel in the preparation and execution of an affidavit in support of the motion for jurisdiction and certification;
  - d) to facilitate, as may be necessary, the assembling of consent forms from other class members;
  - e) to attend, if necessary, with counsel for cross-examination on my affidavit;
  - f) to attend, if necessary, with counsel for an examination for discovery where I will be asked questions;
  - g) to assist counsel, if necessary, in the preparation and execution of an affidavit of documents, listing any documents I may have in my possession;
  - h) to attend, if necessary, with counsel at trial and give evidence regarding the case;
  - i) to express in some circumstances my opinions on strategy to counsel;

- j) to express my opinion to counsel and to the court if offers to settle are made;
  - k) to express my opinion to counsel and to the court if settlement positions are to be formulated;
  - l) to assist counsel in the execution of any judgment or settlement; and
  - m) to assist counsel, if necessary, with any appeals.
29. I am prepared to discharge each of these responsibilities I am appointed as a representative of the class.
30. In addition, I have taken the following steps to fairly and adequately represent the interests of putative class members:
- a) I retained and instructed *Rochon Genova LLP* to maintain this proceeding on my behalf. Attached hereto as **Exhibit “K”** is my retainer agreement with *Rochon Genova LLP* and co-counsel, *Kim Spencer McPhee Barristers P.C.*;
  - b) I provided personal information used in the preparation of the Second Fresh as Amended Statement of Claim;
  - c) I have reviewed the issued Statement of Claim and the amendments thereafter;
  - d) I assisted in providing information to draft this affidavit; and
  - e) I assisted in providing information to draft the Litigation Plan.
31. If I am appointed as a Representative Plaintiff, I intend to continue to represent the interests of Class Members by taking, amongst others, the following steps:
- a) interact with other class members, receive their input and generally act as a conduit for information to *Rochon Genova LLP*;
  - b) instruct *Rochon Genova LLP*; and
  - c) otherwise participate in the class action as discussed above, as may be



required.

32. I have discussed class counsel's expertise with Mr. Rochon and Mr. Podolny. I believe that class counsel is committed and will continue to commit significant administrative, management and litigation resources to conduct this litigation on behalf of class members. I have further been informed and believe that class counsel will fund all disbursements necessary to vigorously prosecute this class action to a successful conclusion.

33. I am informed by Mr. Podolny that the Class Proceedings Fund has provided funding for this litigation.

### **Litigation Plan**

34. A Litigation Plan for advancing the class action is attached as **Exhibit "L"** to this affidavit. I understand that the Litigation Plan will be reviewed periodically as the litigation progresses and that the final Litigation Plan will be subject to revision and approval by the Court.

35. I have reviewed this Litigation Plan. While I do not have any specific expertise to evaluate its legal aspects, I believe that the Litigation Plan sets out a workable method for advancing the litigation on behalf of the classes.

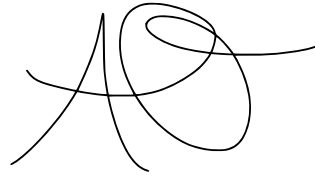
**No Conflict of Interest**

36. I do not have any interest which is in conflict with the interests of any other proposed Representative Plaintiffs. I believe that I can fairly and adequately represent the interests of the Class Members as a representative plaintiff, and I am committed to fulfilling my responsibilities as described above.

**SWORN BEFORE ME** at the City of )  
Toronto in the Province of Ontario )  
this 25<sup>th</sup> day of June, 2020. )



\_\_\_\_\_  
A Commissioner, etc.



\_\_\_\_\_  
Amanda Oberski

Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER, DANIEL BAKER, JUDY HANSEN, STACEY GREEN AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF CANADA LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF EDWARD OBERSKI  
(Sworn June 25, 2020)**

I, EDWARD OBERSKI, of the Township of Saginaw, in the State of Michigan, MAKE OATH AND SAY AS FOLLOWS:

1. I am a proposed representative plaintiff in this action, and, as such, and unless otherwise stated, I have personal knowledge of the facts to which I depose in this affidavit. Where I have been informed of facts to which I depose, I have stated the source of my information and belief, and I confirm that I believe such facts to be true.

2. My daughter, Amanda Oberski, is also a proposed representative plaintiff in this action.

### **Background**

3. I am 68 years old and live in Saginaw, Michigan with my wife, Celina. Together we have two adult children, my son Benjamin and my daughter Amanda. We are a tight-knit, loving family.

4. In June 2006, our family leased a brand-new 2006 Chevrolet Cobalt from Draper Chevrolet in Saginaw, Michigan, bearing VIN number 1G1AK15F86934902 (the “Vehicle”), and on September 23, 2009 we purchased the Vehicle.

5. We obtained the Vehicle as a surprise gift for Amanda, while she was away from home, on a trip. When she came back, she was thrilled to find a brand new vehicle she could call her own. We were delighted at her reaction. Our joy turned into feelings of guilt and pain, when Amanda suffered a devastating accident as a result of the manufacturing defect in the Vehicle (the “Accident”).

6. Prior to the Accident, the Vehicle was driven moderately, approximately 10,000 miles per year. The Vehicle was regularly serviced and, prior to Amanda’s accident described below, had only one minor maintenance issue which was promptly resolved. When Amanda left home to attend the University of Michigan in Ann Arbor, she took the Vehicle, and was driving it on May 27, 2010, the day of the Accident.

## **The Accident**

7. On May 27, 2010, Amanda was driving from Ottawa, Ontario, where she was working as part of an internship at the Parliament of Canada, to Toronto, Ontario. As Amanda informed me and as I understand from review of the relevant police report and other documentation, Amanda experienced sudden difficulties in steering and braking the Vehicle while driving westbound on a clear stretch of Hwy. 401 outside Brockville, Ontario. Amanda lost control of the Vehicle while attempting to correct for this loss of steering and braking function, crossed several lanes of traffic, and rolled over several times. Her airbags failed to deploy.

8. Amanda was severely injured in the Accident. She was in the hospital continuously in Canada until June 9, 2010, and had multiple surgeries. Immediately upon being notified that Amanda was seriously injured, my wife and I traveled to Kingston and stayed there with Amanda. We expended substantial resources and took time off work for this purpose.

9. After a hospital stay in Kingston, Ontario, Amanda was airlifted back to Saginaw, Michigan, where she remained in hospital until June 17, 2010 before being discharged to our care. We stayed with Amanda almost constantly during her time in the hospital, taking time off work.

10. After her discharge, Amanda spent the rest of the summer in our house. She was completely non-weight bearing and very weak. Her right leg had broken in multiple places in the Accident, her right lung had collapsed, her left arm had broken, and she had soft tissue injuries throughout her body.

11. We spent hours every day assisting Amanda with the activities of daily living and her rehabilitation exercises and procured mobility and rehabilitation equipment, such as a hospital bed and ramp that we installed in our home. We also incurred numerous out-of-pocket expenses as a result of the Accident. To date, we have spent approximately USD \$20,000 on various out-of-pocket expenses arising from the Accident and in support of Amanda's care and recovery.

12. Though Amanda successfully returned to school for the 2010-2011 term, Amanda returned home less during the year due to the pain and anxiety caused by travel. This in and of itself was difficult for our family, as we are close and enjoy spending time at home together. Since the Accident, we also miss the activities we used to enjoy with Amanda, which she can no longer perform due to the physical limitations caused by her injuries. Prior to Amanda's injury, we used to enjoy going on vacations together and going shopping through outdoor markets, both of which activities required long walks. Many of these activities are severely affected, due to Amanda being unable to walk long distances and requiring frequent breaks to sit down and recover. Amanda remains unable to climb many stairs, which additionally restricts our family outings.

13. During and after physical activity, Amanda sometimes experienced debilitating pain. As a result, even when we managed to embark on a carefully planned family outing, such as a walk to a nearby restaurant, we frequently had to abort the outing and return in a hurry. Amanda would then apologize profusely for being unable to complete the family outing, or having to interrupt it and return home due to pain, which imposed a further heavy emotional toll on us.

14. Furthermore, Amanda remains intensely anxious about driving. Car trips together as a family, which we once enjoyed, are no longer feasible. This also limits our family's ability to visit each other and stay closely connected as we did prior to the accident.

15. Celina, Benjamin and I were fearful for Amanda's prognosis given the severity of her injuries and were upset by her evident pain, anguish, and loss of function. For example, in the first two years following her accident, Amanda was so anxious about driving that she could not sit in the front seat of a car with us. Instead, she would sit in the back, and be so anxious that she would cry quietly until we stopped driving. Amanda also voiced her concern to us about car trips taken by family members, even when she was not in the car herself.

16. We also noticed that Amanda's demeanour changed as a result of the accident. Though she was, and is, a good-natured and easy-going person, in the months following the accident she was moody, and would "snap" unpredictably. She could not tolerate watching television or movie scenes involving car crashes. She has been diagnosed with and has received extensive treatment for PTSD, including pharmacotherapy and various kinds of talk therapy. Despite her considerable physical and mental progress, she continues to experience symptoms of PTSD arising from the accident to this day.

17. We know that Amanda will require further corrective surgeries as she ages, which is concerning. We also worry about her mobility, given that she appears to have plateaued at a modest level of functioning that does not permit her to, jump or run at all, or walk for more than a few minutes without pain.

## The Recall Notices

18. On or about March 31, 2014, approximately four years after the Accident, we received a recall notice from the Defendants concerning the Vehicle. We later received other recall notices concerning the Vehicle in April and June, 2014. The March and April recall notices state in part as follows:

There is a risk, under certain conditions, that your ignition switch may move out of the “run” position, resulting in a partial loss of electrical power and turning off the engine. The risk increases if your key ring is carrying more weight (such as more keys or the key fob) or your vehicle experiences rough road conditions or other jarring or impact related conditions. If the ignition switch is not in the run position, the air bags may not deploy if the vehicle is involved in a crash, increasing the risk of injury or fatality.

19. This was the first time I had ever received a warning from GM about the Ignition Switch Defect, as that term is defined in the proposed Second Fresh as Amended Statement of Claim.

20. I am informed by Mr. Podolny, a lawyer at Rochon Genova LLP who is working on this action, that the defendants ultimately recalled over 30 million vehicles worldwide in respect of the Ignition Switch Defect, and that the defendants have admitted that the Ignition Switch Defect is responsible for hundreds of wrongful deaths. I am informed that over a million vehicles were recalled in Canada.

21. I believe that the Ignition Switch Defect caused the Accident. We leased the Cobalt as a new vehicle, and nothing in its maintenance history or in our driving experience suggested any underlying defect or repair issue that could have caused the complete loss



of control that Amanda experienced immediately prior to the Accident, let alone the failure of the airbag system to deploy.

### **The Proposed Class Proceeding**

22. I am advised by Mr. Podolny that numerous Canadian actions were filed against the defendants following the recalls concerning the Ignition Switch Defect, and that Justice Perell ordered those actions consolidated into this consolidated claim on October 11, 2016. I understand that the Fresh as Amended Statement of Claim is the plaintiffs' current pleading in this consolidated claim.

23. I have reviewed the Fresh as Amended Statement of Claim and have discussed the proposed Second Fresh as Amended Statement of Claim with Mr. Podolny. I understand that these pleadings set out:

- a) the defendants' misconduct in designing, manufacturing, testing, monitoring, marketing, distributing, selling, and failing to warn about vehicles with the Ignition Switch Defect;
- b) the harms caused by the Ignition Switch Defect;
- c) the different legal claims or causes of action arising from these facts;
- d) the remedies sought as a result of the Ignition Switch Defect, including damages for wrongful death, severe personal injury, property loss, and economic loss such as diminution of value in affected vehicles and costs associated with repair of the Ignition Switch Defect.

24. I understand that we are seeking to certify this action as a class proceeding on behalf of the following three classes, as set out in the proposed Second Fresh as Amended Statement of Claim:

***Injury Class***

All persons in Canada who sustained injury or death in an accident while operating, or being transported in, a Class Vehicle, other than Excluded Persons.

***Owner / Lessee Class***

All persons and entities in Canada who were or are the registered owners and/or lessees of the Class Vehicles, other than Excluded Persons.

***Family Class***

All persons who on account of a personal relationship to an Injury Class member are entitled to assert a derivative claim for damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and comparable provincial and territorial legislation, other than Excluded Persons.

25. “Class Vehicles” are all vehicles subject to recall for the Ignition Switch Defect.

26. I understand that a consortium of law firms including *Rochon Genova LLP* is prosecuting this action on behalf of the Class. I am advised by Mr. Podolny, and believe, that since this proceeding was commenced in 2014, the various firms comprising the consortium have been contacted by hundreds of putative Class Members, and that the consortium expects to be contacted by further Class Members throughout this proceeding.

27. I believe that the resolution of the common issues will substantially advance the litigation in Canada. I also believe that certification of this action would save considerable time, expense and resources of the parties and the Court. Following

certification of the common issues, I understand that only individual causation and damages will remain.

28. I am advised by Mr. Podolny, and believe, that the cost of pursuing a case such as this to trial will be very costly. I believe that, if this action is not certified, few, if any, Class Members will commence individual actions, either because they cannot afford the legal costs of doing so, or because the legal costs of pursuing individual claims would outweigh the losses each have suffered, such that the individual actions would be uneconomical to pursue.

29. I would be unable to pay a lawyer to pursue my claim on an hourly basis. I am advised that the number of Class Vehicles exceeds a million. I believe that a class proceeding is the only means by which the Class Members will be able to gain access to justice for the defendants' misconduct.

30. I am advised by Mr. Podolny that the Ontario Class Proceedings Fund, which provides financial support to approved class action plaintiffs for legal disbursements, has awarded funding to this case.

### **Phases of a Class Action**

31. Mr. Podolny has advised me of the three major phases (apart from any appeals) in a class action:

**Phase One** – Certification;

**Phase Two** – Trial of the common issues; and

**Phase Three** – Determination of individual issues including damages.

32. It is my understanding from Mr. Podolny that the three phases of this proceeding are comprised of the following steps:

- a) in **Phase One** of this proceeding, I am asking the court to certify the action as a class proceeding. I understand that I am seeking the court's approval to appoint me as one of the Representative Plaintiffs to prosecute this action on behalf of all Injury Class Members;
- b) cross-examinations on the certification affidavits will occur. I might be asked questions, under oath, by counsel for the Defendants about this action and my request to be appointed as one of the Representative Plaintiffs;
- c) the court will hear the certification motion and decide whether the action has met the requirements for certification, which I understand are set out in the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 ("CPA");
- d) if the court certifies the action as a class proceeding, notice of the certification order will be given to Class Members, who will be given the opportunity to opt-out of the class action within a fixed period of time as determined by the court;
- e) any Class Member who decides to opt-out will not be entitled to participate in any settlement or any award of damages made at any trial in this action;
- f) at certification, the court will also determine the common issues to be tried in this action. The common issues are the issues that will be decided on behalf of all of the Class Members. All of the Class Members who do not opt-out will be bound by the court's determination of the common issues;
- g) in the event that this action is certified, prior to a trial of the common issues, the Defendants and all the Representative Plaintiffs must exchange affidavits of documents, listing all documents relevant to this action that are within our possession, power or control;

- h) examinations for discovery will be held, during which counsel for the Defendants will ask me questions. My counsel will ask questions of representatives of the Defendants;
- i) case management conferences will be held with the case management judge from time to time relating to various procedural and scheduling issues;
- j) in **Phase Two** of this proceeding if the action is not settled, there will be a trial of the common issues that will decide, among other things, whether either or both of the Defendants are liable for the conduct alleged in the Claim;
- k) determinations at the common issues trial will be binding on the Defendants and the Class;
- l) at the conclusion of the common issues trial, the court will decide whether damages, or any other relief, is to be awarded to the Class;
- m) in **Phase Three** of this proceeding, individual hearings, or court reference or individual assessments will be conducted to determine individual issues and awards of damages for the Class Members, if the court deems necessary;
- n) notice will be given to the Class Members to give them the opportunity to participate at this stage, if necessary;
- o) I understand that the case management judge may exercise his discretion to modify various aspects of this procedure before and/or after the certification of this action;
- p) at any stage, the class action may be settled, but only with court approval;
- q) class counsel's fees will be deducted from any amount awarded to the Class, in accordance with the retainer agreement and subject to court approval; and
- r) the court will also determine any costs that will be payable by the losing party.

33. As referenced above, there may be appeals or attempts to appeal launched by either side at various stages of this action.

### **My Role as Representative Plaintiff**

34. I understand that, in agreeing to seek and accept an appointment by the court as a Representative Plaintiff, it is my responsibility, among other things:

- a) to become familiar with the issues to be decided by the court;
- b) to review the statement of claim and any amendments;
- c) to assist counsel in the preparation and execution of an affidavit in support of the motion for jurisdiction and certification;
- d) to facilitate, as may be necessary, the assembling of consent forms from other class members;
- e) to attend, if necessary, with counsel for cross-examination on my affidavit;
- f) to attend, if necessary, with counsel for an examination for discovery where I will be asked questions;
- g) to assist counsel, if necessary, in the preparation and execution of an affidavit of documents, listing any documents I may have in my possession;
- h) to attend, if necessary, with counsel at trial and give evidence regarding the case;
- i) to express in some circumstances my opinions on strategy to counsel;
- j) to express my opinion to counsel and to the court if offers to settle are made;
- k) to express my opinion to counsel and to the court if settlement positions are to be formulated;
- l) to assist counsel in the execution of any judgment or settlement; and
- m) to assist counsel, if necessary, with any appeals.

35. I am prepared to discharge each of these responsibilities I am appointed as a representative of the class.

36. In addition, I have taken the following steps to fairly and adequately represent the interests of putative class members:

- a) I retained and instructed *Rochon Genova LLP* to maintain this proceeding on my behalf. Attached hereto as **Exhibit “A”** is my retainer agreement with *Rochon Genova LLP* and co-counsel, *Kim Spencer McPhee Barristers P.C.*;
  - b) I provided personal information used in the preparation of the Second Fresh as Amended Statement of Claim;
  - c) I have reviewed the issued Statement of Claim and the amendments thereafter;
  - d) I assisted in providing information to draft this affidavit; and
  - e) I assisted in providing information to draft the Litigation Plan.
37. If I am appointed as a Representative Plaintiff, I intend to continue to represent the interests of Class Members by taking, amongst others, the following steps:
- a) interact with other class members, receive their input and generally act as a conduit for information to *Rochon Genova LLP*;
  - b) instruct *Rochon Genova LLP*; and
  - c) otherwise participate in the class action as discussed above, as may be required.

38. I have discussed class counsel’s expertise with Mr. Rochon and Mr. Podolny. I believe that class counsel is committed and will continue to commit significant administrative, management and litigation resources to conduct this litigation on behalf of class members. I have further been informed and believe that class counsel will fund all disbursements necessary to vigorously prosecute this class action to a successful conclusion.

39. I am informed by Mr. Podolny that the Class Proceedings Fund has provided funding for this litigation.

### **Litigation Plan**

40. A Litigation Plan for advancing the class action is attached as **Exhibit “B”** to this affidavit. I understand that the Litigation Plan will be reviewed periodically as the

litigation progresses and that the final Litigation Plan will be subject to revision and approval by the Court.

41. I have reviewed this Litigation Plan. While I do not have any specific expertise to evaluate its legal aspects, I believe that the Litigation Plan sets out a workable method for advancing the litigation on behalf of the classes.

**No Conflict of Interest**

42. I do not have any interest which is in conflict with the interests of any other proposed Representative Plaintiffs. I believe that I can fairly and adequately represent the interests of the Family Class Members as a representative plaintiff, and I am committed to fulfilling my responsibilities as described above.

**SWORN BEFORE ME** at the Township of )  
Saginaw in the State of Michigan )  
this 25 day of June, 2020. )

*R Podolny*  
\_\_\_\_\_  
A Commissioner, etc.

*Edward Oberski*  
\_\_\_\_\_  
Edward Oberski



Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

NICHOLAS BAKER, by his estate representative SUZANNE BAKER, DANIEL BAKER,  
JUDY HANSEN, STACEY GREEN AND WENDY SCOBIE

Plaintiffs

and

GENERAL MOTORS LLC, GENERAL MOTORS HOLDINGS, LLC, GENERAL MOTORS  
CORPORATION, GENERAL MOTORS COMPANY, and GENERAL MOTORS OF  
CANADA LIMITED (now known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF STACEY GREEN**

I, Stacey Green, of the City of Windsor, in the Province of Ontario, MAKE OATH AND SAY AS  
FOLLOWS:

1. I am a proposed Representative Plaintiff for this action. Accordingly, I have personal knowledge of the facts hereinafter deposed to and which I believe to be true. Where I have been informed of the facts to which I depose, I have stated the source of my information and belief, and I confirm that I believe such facts to be true.
2. I swear this affidavit in support of a motion to certify this action as a class proceeding in the Ontario Superior Court of Justice.

### **My Personal Circumstances**

3. I live in Windsor, and work full-time as a medical administrator.
4. Driving is central to my lifestyle. I rely on my car to commute to work and for errands.
5. I purchased my 2007 Saturn Ion in November 2007 from Saturn Saab of Windsor. I was a previous owner of a Saturn and was satisfied with its performance and safety. I trusted that my new Saturn would also be a safe vehicle. At the time, I also considered alternative vehicles, including Honda and Ford products, available within the same price range as the Saturn.
6. I relied on the Saturn to transport my elderly father, who lived with me, as well as my aunt, who lived independently but had significantly impaired mobility due to her advanced age. Because of these factors, safety was, and remains, my number one priority in a car.

### **The Recall**

7. In early March 2014, I learned from the news that certain GM vehicles were being widely recalled due to a dangerous ignition switch defect. I visited Transport Canada's website on March 10, 2014 and found Recall # 2014060, which encompassed my 2007 Saturn Ion:

On certain vehicles, a defect in the ignition switch could allow the switch to move out of the "run" position if the key ring is carrying added weight and the vehicle goes off-road or is subjected to some other jarring event. The timing of the key movement out of the "run" position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the risk of injury. Correction: Dealers will replace the ignition switch. Note: Until the correction is performed, all items should be removed from the key ring. Note: This is an expansion of recall 2014-038.

8. This was deeply concerning to me. It was the first time I had ever heard of the Ignition Switch Defect, as that term is defined in the proposed Second Fresh as Amended Statement of

Claim. I contacted my dealership, Gus Revenberg Chevrolet Buick GMC Ltd., but they could provide no further details, and did not know when a replacement part would be available.

9. I spent a considerable amount of time every week through the month of March trying to stay abreast of the recall and I reduced my driving to a minimum. I was also concerned about the fact that I had not received a mailed recall notice, despite having seen online that my vehicle was affected by a dangerous defect.

10. After I learned from my dealership that replacement parts had arrived, it took repeated attempts to convince them to repair my car. They finally agreed, and on March 29, 2014 I delivered my vehicle to the dealership and took possession of a rental car for the next 25 days.

11. The repairs to my vehicle were completed on April 22, 2014, a weekday. I again took time off work to return the rental to the dealership and pick up my vehicle.

12. Overall, I had to take two days off work in order to permit GM to implement the recall on my vehicle. At that time, I was managing a busy vascular surgeon's practice. I was not compensated for the wages I lost at that time, or the lost time and inconvenience this has caused.

13. I was put to further inconvenience following the repair, as I learned that GM's first batch of replacement ignition switches were also defective. I spent a few hours conducting research and speaking to my dealership and a GM representative to verify that my vehicle had, in fact, received parts from a non-defective batch.

14. Since my vehicle was recalled, I continue to drive with caution. I no longer trust that my vehicle is safe, but I do not have the resources to simply buy a new vehicle from a different manufacturer.

**Importance of the Defect**

15. I was never warned at any time prior to purchasing my vehicle that it contained a defective ignition switch which could lead to moving stalls, airbag non-deployment, or loss of power steering and brakes while driving. I learned about this defect from the news, some seven years after I purchased the vehicle.

16. Vehicle safety is very important for me and my family. I rely on my vehicle to transport vulnerable family members, including my elderly father and aunt, as well as my young great nieces and nephews.

17. When I was purchasing my GM vehicle, I researched alternatives online and spoke to vendors to ensure I am buying a vehicle without known safety defects. At no time was I advised that my GM vehicle contained a defective ignition switch which could lead it to stall while driving.

18. I would never have knowingly purchased a vehicle that contained a defective ignition switch which could lead to a serious injury or death. Had I known that my vehicle contained a defective ignition switch, I would have purchased another manufacturer's vehicle instead, several of which were available in a similar price range, and which I considered as alternatives.

**The Proposed Class Proceeding**

19. I am advised by Mr. Podolny, a lawyer at *Rochon Genova LLP* who is working on this action, that numerous Canadian actions were filed against the defendants following the recalls concerning the Ignition Switch Defect, and that Justice Perell ordered those actions consolidated

into this consolidated claim on October 11, 2016. I understand that the Fresh as Amended Statement of Claim is the plaintiffs' current pleading in this consolidated claim.

20. I have reviewed the Fresh as Amended Statement of Claim and have discussed the proposed Second Fresh as Amended Statement of Claim with Mr. Podolny. I understand that these pleadings set out:

- (i) the defendants' misconduct in designing, manufacturing, testing, monitoring, marketing, distributing, selling, and failing to warn about vehicles with the Ignition Switch Defect;
- (ii) the harms caused by the Ignition Switch Defect;
- (iii) the different legal claims or causes of action arising from these facts;
- (iv) the remedies sought as a result of the Ignition Switch Defect, including damages for wrongful death, severe personal injury, property loss, and economic loss such as diminution of value in affected vehicles and costs associated with repair of the Ignition Switch Defect

21. I understand that we are seeking to certify this action as a class proceeding on behalf of the following three classes, as set out in the proposed Second Fresh as Amended Statement of Claim:

***Injury Class***

All persons in Canada who sustained injury or death in an accident while operating, or being transported in, a Class Vehicle, other than Excluded Persons.

***Owner / Lessee Class***

All persons and entities in Canada who were or are the registered owners and/or lessees of the Class Vehicles, other than Excluded Persons.

***Family Class***

All persons who on account of a personal relationship to an Injury Class member are entitled to assert a derivative claim for damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and comparable provincial and territorial legislation, other than Excluded Persons.

22. “Class Vehicles” are all vehicles subject to recall for the Ignition Switch Defect.

23. I understand that a consortium of law firms including *Rochon Genova LLP* is prosecuting this action on behalf of the Class. I am advised by Mr. Podolny, and believe, that since this proceeding was commenced in 2014, the firms comprising the consortium have been contacted by dozens of putative Class Members, and that the consortium expects to be contacted by further Class Members throughout this proceeding.

24. I believe that the resolution of the common issues will substantially advance the litigation in Canada. I also believe that certification of this action would save considerable time, expense and resources of the parties and the Court. Following certification of the common issues, I understand that only individual causation and damages will remain.

25. I am advised by Mr. Podolny, and believe, that the cost of pursuing a case such as this to trial will be very costly. I believe that, if this action is not certified, few, if any, Class Members will commence individual actions, either because they cannot afford the legal costs of doing so, or because the legal costs of pursuing individual claims would outweigh the losses each have suffered, such that the individual actions would be uneconomical to pursue.

26. I would be unable to pay a lawyer to pursue my claim on an hourly basis. I am advised that the number of Class Vehicles exceeds a million. I believe that a class proceeding is the only means by which the Class Members will be able to gain access to justice for the defendants' misconduct.

27. I am advised by Mr. Podolny that the Class Proceedings Fund, which provides financial support to approved class action plaintiffs for legal disbursements, has awarded funding to this case.

### **Phases of a Class Action**

28. Mr. Podolny has advised me of the three major phases (apart from any appeals) in a class action:

**Phase One** – Certification;

**Phase Two** – Trial of the common issues; and

**Phase Three** – Determination of individual issues including damages.

29. It is my understanding from Mr. Podolny that the three phases of this proceeding are comprised of the following steps:

- a) in **Phase One** of this proceeding, I am asking the court to certify the action as a class proceeding. I understand that I am seeking the court's approval to appoint me as a Representative Plaintiff to prosecute this action on behalf of all Owner Class Members;
- b) cross-examinations on the certification affidavits will occur. I might be asked questions, under oath, by counsel for the Defendants about this action and my request to be appointed as one of the Representative Plaintiffs;
- c) the court will hear the certification motion and decide whether the action has met the requirements for certification, which I understand are set out in the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 ("CPA");
- d) if the court certifies the action as a class proceeding, notice of the certification order will be given to Class Members, who will be given the opportunity to opt-out of the class action within a fixed period of time as determined by the court;
- e) any Class Member who decides to opt-out will not be entitled to participate in any settlement or any award of damages made at any trial in this action;
- f) at certification, the court will also determine the common issues to be tried in this action. The common issues are the issues that will be decided on behalf of all of the Class Members. All of the Class Members who do not opt-out will be bound by the court's determination of the common issues;
- g) in the event that this action is certified, prior to a trial of the common issues, the Defendants and all the Representative Plaintiffs must exchange affidavits of documents, listing all documents relevant to this action that are within our possession, power or control;
- h) examinations for discovery will be held, during which counsel for the Defendants will ask me questions. My counsel will ask questions of representatives of the Defendants;
- i) case management conferences will be held with the case management judge from time to time relating to various procedural and scheduling issues;



- j) in **Phase Two** of this proceeding if the action is not settled, there will be a trial of the common issues that will decide, among other things, whether either or both of the Defendants are liable for the conduct alleged in the Claim;
  - k) determinations at the common issues trial will be binding on the Defendants and the Class;
  - l) at the conclusion of the common issues trial, the court will decide whether damages, or any other relief, is to be awarded to the Class;
  - m) in **Phase Three** of this proceeding, individual hearings or court reference or individual assessments will be conducted to determine individual issues and awards of damages for the Class Members, if the court deems necessary;
  - n) notice will be given to the Class Members to give them the opportunity to participate at this stage, if necessary;
  - o) I understand that the case management judge may exercise his discretion to modify various aspects of this procedure before and/or after the certification of this action;
  - p) at any stage, the class action may be settled, but only with court approval;
  - q) class counsel's fees will be deducted from any amount awarded to the Class, in accordance with the retainer agreement and subject to court approval; and
  - r) the court will also determine any costs that will be payable by the losing party.
30. As referenced above, there may be appeals or attempts to appeal launched by either side at various stages of this action.

### **My Role as Representative Plaintiff**

31. I understand that, in agreeing to seek and accept an appointment by the court as a Representative Plaintiff, it is my responsibility, among other things:

- a) to become familiar with the issues to be decided by the court;
- b) to review the statement of claim and any amendments;
- c) to assist counsel in the preparation and execution of an affidavit in support of the motion for jurisdiction and certification;
- d) to facilitate, as may be necessary, the assembling of consent forms from other class members;
- e) to attend, if necessary, with counsel for cross-examination on my affidavit;
- f) to attend, if necessary, with counsel for an examination for discovery where I will be asked questions;
- g) to assist counsel, if necessary, in the preparation and execution of an affidavit of documents, listing any documents I may have in my possession;
- h) to attend, if necessary, with counsel at trial and give evidence regarding the case;
- i) to express in some circumstances my opinions on strategy to counsel;
- j) to express my opinion to counsel and to the court if offers to settle are made;
- k) to express my opinion to counsel and to the court if settlement positions are to be formulated;
- l) to assist counsel in the execution of any judgment or settlement; and
- m) to assist counsel, if necessary, with any appeals.

32. I am prepared to discharge each of these responsibilities I am appointed as a representative of the class.

33. In addition, I have taken the following steps to fairly and adequately represent the interests of putative class members:

- a) I retained and instructed *Rochon Genova LLP* to maintain this proceeding on my behalf. Attached hereto as **Exhibit "B"** is my retainer agreement with *Rochon Genova LLP* and co-counsel, *Kim Spencer McPhee Barristers P.C.*;
- b) I provided personal information used in the preparation of the Second Fresh as Amended Statement of Claim;
- c) I have reviewed the issued Statement of Claim and the amendments thereafter;
- d) I assisted in providing information to draft this affidavit; and

e) I assisted in providing information to draft the Litigation Plan.

34. If I am appointed as a Representative Plaintiff, I intend to continue to represent the interests of Class Members by taking, amongst others, the following steps:

- a) interact with other class members, receive their input and generally act as a conduit for information to *Rochon Genova LLP*;
- b) instruct *Rochon Genova LLP*; and
- c) otherwise participate in the class action as discussed above, as may be required.

35. I have discussed class counsel's expertise with Mr. Podolny. I believe that class counsel is committed and will continue to commit significant administrative, management and litigation resources to conduct this litigation on behalf of class members. I have further been informed and believe that class counsel will fund all disbursements necessary to vigorously prosecute this class action to a successful conclusion.

36. I am informed by Mr. Podolny that the Class Proceedings Fund has provided funding for this litigation.

### **Litigation Plan**

37. A Litigation Plan for advancing the class action is attached as **Exhibit "A"** to this affidavit. I understand that the Litigation Plan will be reviewed periodically as the litigation progresses and that the final Litigation Plan will be subject to revision and approval by the Court.

38. I have reviewed this Litigation Plan. While I do not have any specific expertise to evaluate its legal aspects, I believe that the Litigation Plan sets out a workable method for advancing the litigation on behalf of the classes.

**No Conflict of Interest**

39. I do not have any interest which is in conflict with the interests of any other proposed Representative Plaintiffs. I believe that I can fairly and adequately represent the interests of the Class Members as a representative plaintiff, and I am committed to fulfilling my responsibilities as described above.

SWORN before me at the City of Windsor, in the Province of Ontario, this 25<sup>th</sup> day of June, 2020. )  
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)

*Kaili Chedore*  
A Commissioner for Taking Affidavits, etc.  
P13391

*Kaili Chedore*  
Commissioner for taking oaths  
for the Province of Ontario  
P13391

*Stacey Green*  
\_\_\_\_\_  
STACEY GREEN

Court File No. CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	TUESDAY, THE 16 <sup>th</sup> DAY OF
	)	
MR. JUSTICE PERELL	)	JANUARY, 2024
	)	

B E T W E E N:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION** made by the Plaintiffs, Amanda Oberski, Edward Oberski and Stacey Green, for this Certification Order and Discontinuance Order required to implement, in part, the Settlement entered into between the Plaintiffs and the Defendants herein, subject to the terms of the Settlement, was heard via videoconference at Osgoode Hall, 130 Queen St. W., Toronto, Ontario.

**ON READING** the material filed, including the Settlement Agreement entered into between the Parties hereto on November 1, 2023, a copy of which is attached to this Order as

Schedule “A” (the “Settlement Agreement”) and upon hearing submissions of counsel for the Plaintiffs and Defendants;

**AND ON BEING ADVISED** that the Defendants consent to this Order and that JND Legal Administration consents to being appointed the Settlement Administrator for purposes of the Settlement Agreement:

1. **THIS COURT ORDERS AND DECLARES** that, except to the extent they are modified by this Order, the capitalized terms not defined in this Order have the definitions set out in the Settlement Agreement.

2. **THIS COURT ORDERS** that this Ontario Action is hereby certified as a class proceeding pursuant to section 5 of the *Class Proceedings Act, 1992* (“CPA”), solely for settlement purposes and subject to the terms of the Settlement Agreement and the conditions set out therein, on behalf of the following class of persons (the “National Settlement Class”):

All Persons resident in Canada other than Excluded Persons and other than Persons whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada.

3. **THIS COURT ORDERS** that the Delta Ignition Switch Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall.

4. **THIS COURT ORDERS** that the Key Rotation Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall.

5. **THIS COURT ORDERS** that the Camaro Knee-Key Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall.

6. **THIS COURT ORDERS** that the Electric Power Steering Subclass be defined as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall.

7. **THIS COURT ORDERS** that Stacey Green be appointed as the Settlement Class Representative for the National Settlement Class.

8. **THIS COURT ORDERS** that the following common issue is certified, for settlement purposes only, pursuant to the *CPA*:

Did any of the Defendants owe a duty of care to National Settlement Class members and if so, what was the standard of care?

9. **THIS COURT ORDERS** that all alleged class claims for wrongful death, personal injury, claims under the *Family Law Act* (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle are hereby discontinued.

10. **THIS COURT ORDERS** that the Short-Form Certification Notice, substantially in the form attached as Schedule “B” to the Settlement Agreement, and the Long-Form Certification Notice, substantially in the form attached as Schedule “C” to the Settlement Agreement, are hereby approved.

11. **THIS COURT ORDERS** that the Short-Form Certification Notice and the Long-Form Certification Notice shall be published and disseminated substantially in accordance with the Notice Program, which is attached to the Affidavit of Jennifer Keough in the Motion Record.

12. **THIS COURT ORDERS** that the form and manner of notice as set out in the Short-Form Certification Notice, the Long-Form Certification Notice, and the Notice Program as approved

herein constitutes sufficient notice to all persons entitled to notice, and satisfies the requirements of notice under sections 17 and 19 of the *CPA*.

13. **THIS COURT ORDERS** that the Settlement Approval Hearing in Ontario will proceed via videoconference on a date and at a time to be set by the court.

14. **THIS COURT ORDERS** that the date and time of the Settlement Approval Hearing in Ontario be stated in the Short-Form Certification Notice and Long-Form Certification Notice, subject to any adjournment by the Court without further notice to the National Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator.

15. **THIS COURT ORDERS** that JND Legal Administration shall be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement.

16. **THIS COURT ORDERS** that National Settlement Class members may opt out and exclude themselves from this proceeding by contacting JND Legal Administration, in writing, no later than the Opt-Out Deadline, being sixty (60) days following the entry of both Certification Orders by the Courts.

17. **THIS COURT ORDERS** that National Settlement Class members may exclude themselves from this proceeding only in accordance with the directions set out in section 10 of the Settlement Agreement, by the Opt-Out Deadline.

18. **THIS COURT ORDERS** that all National Settlement Class members who do not validly opt out of this proceeding by the Opt-Out Deadline shall be bound as of the Effective Date by all terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.

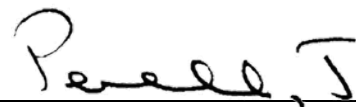


19. **THIS COURT ORDERS** that National Settlement Class members who wish to file with the Court an objection to the Settlement shall deliver a written statement to JND Legal Administration at the address indicated in the Short-Form Certification Notice or Long-Form Certification Notice no later than the Objection Deadline, being sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.

20. **THIS COURT ORDERS** that any party affected by this Order may apply to the Court for further directions.

21. **THIS COURT ORDERS** that this Order is contingent upon a parallel order being made by the Superior Court of Québec and the terms of this Order shall not be effective unless and until such an order is made by the Superior Court of Québec.

22. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including certification of the National Settlement Class for settlement purposes and all written elections to opt-out delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.



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THE HONOURABLE JUSTICE PERELL

**SCHEDULE "A" – SETTLEMENT AGREEMENT**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

EDWARD OBERSKI,  
AMANDA OBERSKI, AND STACEY GREEN

Plaintiff

-and-

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now known as  
GENERAL MOTORS OF CANADA COMPANY)

Defendants

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SUPERIOR COURT OF QUÉBEC**

BETWEEN:

MICHAEL GAGNON

Petitioner

-and-

GENERAL MOTORS OF CANADA and GENERAL MOTORS COMPANY

Respondents

**SETTLEMENT AGREEMENT**

Dated as of November 1, 2023

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<b>Schedule</b>	<b>Title</b>
A	General List of Subject Vehicles
B	Short-Form Certification Notice
C	Long-Form Certification Notice
D	Approval Notice
E	Claim Form
F	Initial Press Release
G	Reminder Press Release

## 1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts and without any admission or concession of liability or wrongdoing or lack of merit in their defenses by the Released Parties, all class claims asserted in the Actions and Related Actions by the Settlement Class Members (the “**Settlement**”).

Following negotiations facilitated by a mediator, The Honourable Justice Thomas Cromwell, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

Pursuant to this Settlement, benefits shall be offered to Settlement Class Members claiming economic loss in relation to a Subject Vehicle. All class claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage arising from an accident involving a Subject Vehicle shall be discontinued or removed, and claimants may instead pursue claims for wrongful death or personal injury (and related family/dependent claims) or actual physical property damage individually.

Only after agreeing to the principal terms set forth in this Settlement Agreement, the Parties, with additional facilitation by The Honorable Justice Thomas Cromwell as mediator, negotiated the Plaintiffs’ Counsel Fee Amount, an amount that is separate and apart from the benefits provided to the Settlement Class in this Settlement Agreement.

## 2. DEFINITIONS

As used in this Settlement Agreement and its attached schedules, which schedules are an integral part of this Settlement Agreement and are incorporated by reference in their entirety, the following capitalized terms have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in this Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**AAT**” means the Motors Liquidation Company Avoidance Action Trust established pursuant to the Old GM Plan.

- 2.2 “**AAT Administrator**” means Wilmington Trust Company, solely in its capacity as trust administrator and trustee of the AAT pursuant to the Fourth Amended and Restated Motors Liquidation Company Avoidance Action Trust Agreement, dated as of February 25, 2019, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**AAT Agreement**”).
- 2.3 “**AAT Monitor**” means Arthur J. Gonzalez, solely in his capacity as trust monitor of the AAT pursuant to the AAT Agreement.
- 2.4 “**Actions**” means the following three (3) actions:
- 2.4.1 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-502023-CP titled *Oberski et al. v. General Motors LLC et al.* (“**Ontario Action**”);
- 2.4.2 the action in the Superior Court of Québec bearing Court File No. 500-06-000687-141 titled *Michael Gagnon v. General Motors of Canada et al.*; and the action in the Superior Court of Québec bearing Court File No. 500-000729-158 titled *Michael Gagnon v. General Motors of Canada et al.* (the “**Québec Actions**”);
- 2.5 “**Actions Counsel**” means the various Settlement Class Members’ counsel who filed, or who have any claim for, or interest in, legal fees and disbursements in any way, directly or indirectly, related to, the Actions and the Related Actions, including Rochon Genova LLP, Kim Spencer McPhee P.C., LMS Lawyers LLP, Sutts Strosberg LLP, McKenzie Lake Lawyers LLP, Merchant Law Group and Wagners.
- 2.6 “**Administrative Expenses**” means the fees and disbursements of, or incurred by, the Settlement Administrator to perform the duties and services in implementing this Settlement Agreement, including the cost of all notices to Settlement Class Members, all fees and costs of the accountant utilized by the Settlement Administrator to administer deposits to and disbursements from the escrow account containing the Settlement Fund Amount, all fees and costs to implement and

administer the Claims Program, as well as all fees and costs of maintaining an escrow account containing the Settlement Fund Amount (e.g., bank fees).

- 2.7 “**Adjusted Base Payment Amount**” has the meaning ascribed in Section 4.3.2.
- 2.8 “**Amendment Order**” means the order of the Superior Court of Québec granting the amendment of the pleadings in the Québec Actions to name only General Motors LLC and General Motors of Canada Company as defendants and to remove references to “mental distress”, “psychological and emotional distress”, “anxiety”, “fear” and “moral damages”.
- 2.9 “**Approval Notice**” means the English and French versions of the notice to Settlement Class Members substantially in the form attached to this Settlement Agreement as **Schedule “D”**, advising of the approval by the Courts of this Settlement, that the Effective Date has occurred, the commencement date of the Claims Program, the Claims Deadline, the Final Recall Repair Date, the Settlement Website, and how to access the Claims Program.
- 2.10 “**Approval Orders**” means the orders and/or judgments of the Courts approving the Settlement provided for in this Settlement Agreement without any modifications, approving the Approval Notice, and granting the Settlement Class Members’ Release.
- 2.11 “**Base Payment Amount**” has the meaning ascribed in Section 4.3.1.
- 2.12 “**Certification Notice**” means the English and French versions of the Short-Form Certification Notice and Long-Form Certification Notice to Settlement Class Members substantially in the forms attached to this Settlement Agreement as **Schedules “B”** and **“C”**, respectively, advising of the certification/authorization of the Actions for settlement purposes only; the address of the Settlement Website; the Opt-Out Deadline and procedure for opting out of this Settlement; the Objection Deadline and procedure for objecting to this Settlement; and, as approved by the Courts, the removal or discontinuance of all alleged class claims for wrongful death or personal injury (including *Family Law Act* (Ontario) or analogous claims) or



actual physical property damage arising from an accident involving a Subject Vehicle.

- 2.13 “**Certification Orders**” means the orders of the Courts (a) certifying/authorizing the Actions for settlement purposes only with respect to the National Settlement Class and the Québec Settlement Class; (b) appointing the Settlement Administrator; (c) approving the Notice Program and Certification Notice; and (d) setting the Opt-Out Deadline and Objection Deadline.
- 2.14 “**Claim**” means a properly completed Claim Form pertaining to a single Subject Vehicle submitted by or on behalf of a Claimant with all required supporting documentation to the Settlement Administrator on or before the Claims Deadline.
- 2.15 “**Claim Form**” means the document that enables a Claimant to apply for benefits under this Settlement Agreement, substantially in the form attached to this Settlement Agreement as **Schedule “E”**.
- 2.16 “**Claimant**” means a Person who purports to be a Settlement Class Member who completes and submits a Claim Form on or before the Claims Deadline, either directly or through their estate or legal representative.
- 2.17 “**Claims Deadline**” means the deadline by which a Claimant must submit a complete and valid Claim, which, subject to Section 15.11, shall be one hundred twenty (120) days from the Effective Date.
- 2.18 “**Claims Program**” means the program that the Settlement Administrator shall use to review and assess the eligibility of Claims, and to determine the benefits that Eligible Claimants are to receive under this Settlement Agreement, as described in Section 7 of this Settlement Agreement.
- 2.19 “**Co-Lead Counsel**” means Rochon Genova LLP and Kim Spencer McPhee Barristers P.C., as defined in the order of Perell J. dated October 11, 2016.
- 2.20 “**Courts**” means the Ontario Superior Court of Justice and the Superior Court of Québec.

- 2.21 “**Deficiency Notice**” has the meaning ascribed in Section 7.8.
- 2.22 “**Discontinuance Order**” means the order of the Ontario Superior of Justice discontinuing all alleged class claims in the Ontario Action for wrongful death, personal injury, claims under the *Family Law Act* (Ontario) (and analogous legislation in other Provinces), and/or claims for actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle.
- 2.23 “**Effective Date**” means the first business day after the last of the Required Orders becomes Final and so long as GM does not exercise its unilateral termination right provided for in Section 10.11, or a date thereafter that is agreed to in writing by the Parties.
- 2.24 “**Eligible Claim**” means a Claim that the Settlement Administrator has determined to be eligible to receive benefits under this Settlement Agreement pursuant to the process set forth in Section 7 of this Settlement Agreement.
- 2.25 “**Eligible Claimant**” means a Settlement Class Member who has submitted an Eligible Claim.
- 2.26 “**Excluded Persons**” means the following Persons
- 2.26.1 authorized GM dealers;
  - 2.26.2 daily rental fleet purchasers, owners and lessees (that is a Person engaged in the business of rental of passenger cars, without drivers, to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals) which shall be based upon GM data that it provides to the Settlement Administrator and shall be determinative;
  - 2.26.3 governmental or quasi-governmental bodies;
  - 2.26.4 the judicial officers presiding over the Actions and Related Actions and their immediate family members;

- 2.26.5 Actions Counsel as well as members of their staff and immediate family;
- 2.26.6 all Persons who have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls whose names shall be provided by GM to the Settlement Administrator; and
- 2.26.7 valid Opt-Outs.
- 2.27 “**Final**” means, in respect of any Required Orders contemplated by this Settlement Agreement, the issued and entered orders are upheld on any appeal or the time limit for any such appeal has lapsed.
- 2.28 “**Final Base Payment Amount**” has the meaning ascribed in Section 4.3.7.
- 2.29 “**Final Recall Repair Date**” means one hundred eighty (180) days after the Effective Date.
- 2.30 “**GM**” means New GM and GM Canada collectively.
- 2.31 “**GM Canada**” means General Motors of Canada Company (formerly General Motors of Canada Limited).
- 2.32 “**GUC Trust**” means the Motors Liquidation Company GUC Trust established pursuant to the Old GM Plan.
- 2.33 “**GUC Trust Administrator**” means Wilmington Trust Company, solely in its capacity as GUC Trust Administrator and Trustee of the GUC Trust pursuant to the Second Amended and Restated Motors Liquidation Company GUC Trust Agreement, dated as of July 30, 2015, as such agreement may be amended, restated, or supplemented from time to time, and including all exhibits, schedules and addenda thereto (the “**GUC Trust Agreement**”).
- 2.34 “**GUC Trust Monitor**” means FTI Consulting, Inc., solely in its capacity as trust monitor of the GUC Trust pursuant to GUC Trust Agreement.
- 2.35 “**Joint Retention Agreement**” has the meaning ascribed in Section 5.2.

- 2.36 “**Long-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “C”**.
- 2.37 “**National Settlement Class**” means all Settlement Class Members who are not part of the Québec Settlement Class.
- 2.38 “**Net Settlement Amount**” means the amount determined by deducting from the Settlement Fund Amount (a) Administrative Expenses; (b) any honouraria payments that are to be paid to plaintiffs as awarded by the Courts; and (c) any taxes required to be paid with respect to the Settlement Fund Amount or amounts withheld by the Settlement Administrator to cover anticipated future tax liabilities as provided for in Section 6.5.2.
- 2.39 “**New GM**” means General Motors LLC.
- 2.40 “**Notice Program**” means the program for the publication and dissemination of the Settlement Class Notices as agreed by the Parties in consultation with the Settlement Administrator and as approved by the Courts in the Certification Orders.
- 2.41 “**Objection Deadline**” means the deadline for Settlement Class Members to object to this Settlement, which shall be sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.
- 2.42 “**Old GM**” means Motors Liquidation Company f/k/a General Motors Corporation.
- 2.43 “**Old GM Bankruptcy Estates**” means the Debtors’ (as defined in the Old GM Plan) estates created upon the commencement of the chapter 11 case in the United States Bankruptcy Court for the Southern District of New York, captioned *In re Motors Liquidation Corporation, et al. f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG), including, without limitation, all property, rights, defenses and claims included therein.
- 2.44 “**Old GM Plan**” means the *Debtors’ Second Amended Joint Chapter 11 Plan*, dated March 18, 2011, and as confirmed by the United States Bankruptcy Court for the Southern District of New York on March 29, 2011.

- 2.45 “**Opt-Outs**” means all Persons meeting the definition of Settlement Class Members who have submitted timely requests for exclusion from this Settlement in conformity with the procedural and substantive requirements of this Settlement Agreement and the Certification Orders, prior to the Opt-Out Deadline, and who do not revoke such request for exclusion prior to the Opt-Out Deadline or other date as ordered by the Court.
- 2.46 “**Opt-Out Deadline**” means sixty (60) days after both Certification Orders have been entered by the Courts.
- 2.47 “**Parties**” means the Settlement Class Representatives, Co-Lead Counsel and GM.
- 2.48 “**Person(s)**” means an individual, corporation, business, company, firm, partnership, association, proprietorship, trust, estate, governmental or quasi-governmental body, or any other entity or organization.
- 2.49 “**Plaintiffs’ Counsel Fee Amount**” means such funds as may be approved and awarded in the aggregate by the Courts, pursuant to Plaintiffs’ Counsel Fee Amount Orders, as the full and total amount of fees, expenses, costs, disbursements and associated taxes that GM shall pay to compensate any and all plaintiffs’ counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, and that shall not, under any circumstances exceed CA\$4,397,500.00 (four million, three-hundred and ninety seven thousand and five hundred Canadian dollars) (the “**Maximum Plaintiffs’ Counsel Fee Amount**”).
- 2.50 “**Plaintiffs’ Counsel Fee Amount Orders**” means the orders of both Courts approving the payment to Actions Counsel of the Plaintiffs’ Counsel Fee Amount.
- 2.51 “**Preliminary Administrative Expenses**” has the meaning ascribed in Section 5.2 and are part of the Administrative Expenses.

2.52 “**Québec Settlement Class**” means all Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec.

2.53 “**Recalls**” means the GM vehicle recalls covered by the following Transport Canada Recall Numbers:

2.53.1 2014-038, 2014-060, and 2014-101 (collectively the “**Delta Ignition Switch Recall**”);

2.53.2 2014-273, 2014-246, and 2014-284 (collectively the “**Key Rotation Recall**”);

2.53.3 2014-243 (the “**Camaro Knee-Key Recall**”); and

2.53.4 2014-104 (the “**Electric Power Steering Recall**”).

2.53.5 For purposes of cross-reference, the below table lists the GM Recall Numbers and Transport Canada Recall Numbers for each of the Recalls:

	<b>GM Recall Number</b>	<b>Transport Canada Recall Number</b>
<b>Delta Ignition Switch Recall</b>	13454	2014-038
	14063	2014-060
	14092	2014-101
<b>Key Rotation Recall</b>	14172	2014-273
	14497	
	14299	2014-246
	14350	2014-284
<b>Camaro Knee-Key Recall</b>	14294	2014-243
<b>Electric Power Steering Recall</b>	14115	2014-104
	14116	
	14117	
	14118	

2.54 “**Recall Announcement Date**” means the certain date in the chart below that is the end of the month following the month of GM’s last initial notification to owners/lessees of each Recall, according to GM's internal data. For a Subject

Vehicle subject to more than one of the Recalls, the Recall Announcement Date shall be the later of the dates in the chart below:

	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
Delta Ignition Switch Recall	13454	2014-038	September 30, 2014
	14063	2014-060	
	14092	2014-101	
Key Rotation Recall	14172	2014-273	November 30, 2014
	14497		
	14299	2014-246	
	14350	2014-284	
Camaro Knee-Key Recall	14294	2014-243	October 31, 2014
Electric Power Steering Recall	14115	2014-104	February 28, 2015
	14116		
	14117		
	14118		

2.55 “**Recall Repair Deficiency Notice**” has the meaning ascribed in Section 7.11.

2.56 “**Related Actions**” means the twelve (12) actions listed below:

2.56.1 the action in the Saskatchewan Court of Queen’s Bench, bearing Court File No. QBG 1396/14 titled *George Shewchuk v. General Motors of Canada Limited et al.* (“**Shewchuk Action**”);

2.56.2 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 480/14 titled *Bradie Herbel v. General Motors of Canada Limited et al.* (“**Herbel Action**”);

2.56.3 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1273/15 titled *Dale Hall v. General Motors of Canada Limited et al.* (“**Hall Action**”);

2.56.4 the action in the Saskatchewan Court of Queen’s Bench bearing Court File No. QBG 1181/15 titled *Rene Fradette v. General Motors of Canada Limited et al.* (“**Fradette Action**”);

2.56.5 the action in the British Columbia Supreme Court bearing Court File No. 14-1262 titled *Garth Coen v. General Motors of Canada Limited et al.* (“**Coen Action**”);

2.56.6 the action in the Alberta Court of Queen's Bench bearing Court File No. 1403-04964 titled *Holly Standingready v. General Motors of Canada Limited* (“**Standingready Action**”);

2.56.7 the action in the Manitoba Court of Queen's Bench bearing Court File No. CI14-88682 titled *Catherine Seeley v. General Motors of Canada Limited et al.* (“**Seeley Action**”);

2.56.8 the action in the New Brunswick Court of Queen's Bench bearing Court File No. MC-176-14 titled *Chris Spicer v. General Motors of Canada Ltd. et al.* (“**Spicer Action**”);

2.56.9 the action in the Nova Scotia Supreme Court bearing Court File No. 427140 titled *Sue Brown et al. v. General Motors of Canada Limited et al.* (“**Brown Action**”);

2.56.10 the action in the Nova Scotia Supreme Court bearing Court File No. 426204 titled *Alex Mulford v. General Motors of Canada Ltd.* (“**Mulford Action**”);

2.56.11 the action in the Newfoundland Supreme Court bearing Court File No. 201401G2284CP titled *Meghan Dunphy v. General Motors of Canada Ltd.* (“**Dunphy Action**”);

2.56.12 the action in the Ontario Superior Court of Justice bearing Court File No. CV-14-20629-CP titled *Academie Ste Cecile International School et al. v. General Motors of Canada Limited* (“**Academie Action**”);

2.57 “**Released Claims**” has the meaning ascribed in Section 11.3.

2.58 “**Released Parties**” means each of the following persons and entities, jointly and severally, individually and collectively (individually, “**Released Party**”):



2.58.1 General Motors of Canada Limited (now known as General Motors of Canada Company), General Motors Company, General Motors LLC, General Motors Holdings LLC, Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.;

2.58.2 Any and all Persons, including dealerships, involved in any of the design, manufacture, assembly, testing, sale, repair, marketing, advertising, inspection, maintenance, recall, or distribution of a Subject Vehicle;

2.58.3 Any and all suppliers of materials, components, and/or services used in the manufacture of a Subject Vehicle;

2.58.4 General Motors Corporation, Motors Liquidation Company, the GUC Trust Monitor, the GUC Trust Administrator, the GUC Trust, any former, current, or future holder of Units (as defined in the GUC Trust Agreement) issued by the GUC Trust (“**Unitholders**”), the AAT, the AAT Administrator, the AAT Monitor, the Old GM Bankruptcy Estates, and any other trust established by the Old GM Plan to hold or pay liabilities of Old GM; and

2.58.5 Any and all past, present and future officers, directors, agents, employees, servants, associates, spouses, representatives, subsidiaries, affiliated companies, parent companies, joint-ventures and joint-venturers, partnerships and partners, members, stockholders, shareholders, bondholders, Unitholders, beneficiaries, trustees, insurers, reinsurers, dealers, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, divisions, agents, agents’ representatives, lawyers, administrators, advisors, predecessors, successors, heirs, executors and assignees of any of the above.

2.59 “**Releasing Parties**” means the Settlement Class Members who are not Opt-Outs, each on behalf of themselves and their heirs, beneficiaries, estates, executors, administrators, representatives, agents, counsel, insurers, reinsurers, subsidiaries, corporate parents, predecessors, successors, indemnitors, subrogees, assigns, and any legal, juridical, or natural person or entity who may claim, by, through, under or on behalf of them.

2.60 **“Required Orders”** means:

2.60.1 The following issued, entered, and Final orders by the Courts: (a) the Amendment Order; (b) the Discontinuance Order; (c) the Certification Orders; and (d) the Approval Orders; and

2.60.2 Issued, entered, and Final orders dismissing the Related Actions with prejudice and without costs.

2.61 **“Settlement Administrator”** means the third-party agreed to by the Parties to administer the Settlement pursuant to the terms and conditions of this Settlement Agreement and applicable Required Orders with such administration to include, but not be limited to, administration of the Settlement Class Notices, administration of the Claims Program, implementing and administering the Settlement Website, opening an escrow account into which the Settlement Fund Amount shall be deposited and making disbursements from the Settlement Fund Amount to pay Administrative Expenses and to make settlement payments to Eligible Claimants.

2.62 **“Settlement Agreement”** means this settlement agreement, including its schedules, exhibits, addenda, and any supplemental agreements agreed to in writing by the Parties.

2.63 **“Settlement Approval Hearings”** means the hearings before the Courts for the purpose of obtaining the Approval Orders.

2.64 **“Settlement Class”** means, for settlement purposes only, all Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada. The Settlement Class is comprised of the four Subclasses, as defined below. For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall.

- 2.65 “**Settlement Class Member**” means a member of the Settlement Class (collectively “**Settlement Class Members**”).
- 2.66 “**Settlement Class Members’ Release**” means the full and final release of the Released Parties, and waiver, bar order, and covenant not to sue the Released Parties, by the Releasing Parties as particularized in Section 11 of this Settlement Agreement.
- 2.67 “**Settlement Class Notices**” means the English and French versions of the Certification Notice and Approval Notice.
- 2.68 “**Settlement Class Representatives**” means with respect to the Ontario Action, Stacey Green, and with respect to the Québec Actions, Michael Gagnon.
- 2.69 “**Settlement Fund Amount**” means the amount of CA\$12,000,000.00 (twelve million Canadian dollars), which is the full and total amount to be paid by GM in this Settlement other than the Plaintiffs’ Counsel Fee Amount, and out of which all Administrative Expenses, any honouraria payments that Actions Counsel may choose to seek and that are awarded to plaintiffs by a court in respect of any Action, and all settlement payments to Settlement Class Members shall be paid by the Settlement Administrator pursuant to the terms and conditions of this Settlement Agreement, and which shall not be paid by GM unless and until each of the terms and conditions for such payment set forth in this Settlement Agreement are met.
- 2.70 “**Settlement Website**” means the website, in English and French, administered by the Settlement Administrator to facilitate the Settlement.
- 2.71 “**Short-Form Certification Notice**” means the Certification Notice substantially in the form attached to this Settlement Agreement as **Schedule “B”**.
- 2.72 “**Subclasses**” means each of the four subclasses as follows:
- 2.72.1 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall (the “**Delta Ignition Switch Subclass**”), and

2.72.2 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall (the “**Key Rotation Subclass**”), and

2.72.3 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall (the “**Camaro Knee-Key Subclass**”), and

2.72.4 those Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall (the “**Electric Power Steering Subclass**”).

2.72.5 Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

2.73 “**Subject Vehicles**” means the GM motor vehicles subject to the Recalls as specifically defined by the VINs provided by GM to the Settlement Administrator. A general list of the make, model and model years of GM vehicles that may be subject to each Recall is attached to this Settlement Agreement as **Schedule “A”**. Since not all vehicles of a certain make, model or model year may have been subject to a Recall, only the VINs provided by GM to the Settlement Administrator for each make, model and model year GM vehicle are Subject Vehicles.

2.74 “**Unclaimed Balance**” means any funds that remain from the Net Settlement Amount after the distribution of settlement payments to Eligible Claimants and the expiry of at least one-hundred and eighty (180) days following the last payment to Eligible Claimants.

2.75 “**VIN**” means the vehicle identification number.

2.76 The term “their” includes “it” or “its” where applicable.

**3. CERTIFICATION FOR SETTLEMENT PURPOSES AND SETTLEMENT AGREEMENT APPROVAL**

3.1 Promptly after the execution of this Settlement Agreement, Co-Lead Counsel shall submit this Settlement Agreement to the Courts pursuant to motions for the Certification Orders. Simultaneously, Co-Lead Counsel shall bring a motion before the Superior Court of Québec seeking the Amendment Order, a motion before the Ontario Superior Court of Justice seeking the Discontinuance Order, and Actions Counsel shall seek the dismissal of the Related Actions with prejudice pursuant to motions brought before the relevant court for each Related Action.

3.2 The motions for the Certification Orders submitted to both Courts shall specify that Co-Lead Counsel seek a Certification Order that is conditional upon a complementary Certification Order being made by the other Court.

3.3 Any certification/authorization of the Actions shall be for the purpose of this Settlement only, and the Released Parties retain all rights to assert that certification/authorization of a class in the Actions and Related Actions for any other purpose is not appropriate.

3.4 This Settlement Agreement shall be null and void and of no force and effect unless the Required Orders are entered in a form agreed to by the Parties and the Effective Date occurs, unless otherwise agreed to in writing by the Parties.

**4. SETTLEMENT BENEFITS**

4.1 Subject to the termination rights as set out in Section 13, and other terms and conditions of this Settlement Agreement, and in consideration for the Settlement Class Members’ Release, after the Effective Date, GM agrees to provide to the Settlement Class Members the consideration of payment of the Settlement Fund Amount, as well as separate payment of the Plaintiffs’ Counsel Fee Amount. This Section 4 describes allocation of the Net Settlement Amount, which shall be paid to Eligible Claimants from out of the Settlement Fund Amount. Sections 5 and 6

address GM's payment of Administrative Expenses and the Settlement Fund Amount Balance, respectively. GM's separate payment of the Plaintiffs' Counsel Fee is addressed in Section 12 below.

4.2 The Net Settlement Amount shall be distributed to Eligible Claimants after the Final Recall Repair Date in the following manner to be computed by the Settlement Administrator:

4.2.1 Each Eligible Claim by members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.2.2 Each Eligible Claim by members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to each Eligible Claim by members of the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3 In order to determine the settlement payment amount for each Eligible Claim for each Subclass, the following calculation process shall be used:

4.3.1 First, the number of all Eligible Claims for all Subclasses shall be divided into the Net Settlement Amount to determine an initial "**Base Payment Amount**" for calculation purposes. Only an Eligible Claim of an Eligible Claimant with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be counted twice, once in the Delta Ignition Switch Subclass and once in the Electric Power Steering Subclass.

4.3.2 Second, an "**Adjusted Base Payment Amount**" shall be determined by multiplying the Base Payment Amount by a factor of two (2) for Eligible Claims in the Delta Ignition Switch Subclass, by a factor of one-and-a-half (1.5) for Eligible Claims in the Key Rotation Subclass, and by a factor of one (1) for Eligible Claims in the Camaro Knee-Key and Electric Power Steering Subclasses.

4.3.3 Third, the Adjusted Base Payment Amount for each Subclass shall be multiplied by the number of Eligible Claims in that Subclass to determine the total value of the Eligible Claims for that Subclass.

4.3.4 Fourth, the total value of the Eligible Claims for each Subclass shall be totaled so that the value of total Eligible Claims for each Subclass can be assigned a percentage.

4.3.5 Fifth, each Subclass' percentage shall be applied to the Net Settlement Amount in order to determine a prorated value of Eligible Claims for each Subclass.

4.3.6 Sixth, each Subclass' prorated value of Eligible Claims shall be divided by the number of all Eligible Claims for that Subclass to determine the payment amount for each Subclass' Eligible Claim.

4.3.7 Thus, and put another way, the “**Final Base Payment Amount**”, that is, the one that forms the basis for payments to Settlement Class Members for each of their individual Eligible Claims, can be calculated as

$$[\text{Net Settlement Amount}] / [2 \times (\text{no. of Eligible Claims in Delta Ignition Switch Subclass}) + 1.5 \times (\text{no. of Eligible Claims in Key Rotation Subclass}) + 1 \times (\text{no. of Eligible Claims in Camaro Knee-Key Subclass}) + 1 \times (\text{no. of Eligible Claims in Electric Power Steering Subclass})]$$

Eligible Claimants in the Camaro Knee-Key Subclass and Electric Power Steering Subclass will receive that Final Base Payment Amount. Eligible Claimants in the Delta Ignition Switch Subclass will receive 2x the Final Base Payment Amount. Eligible Claimants in the Key Rotation Subclass will receive 1.5x the Final Base Payment Amount. Eligible Claimants with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive 3x the Final Base Payment Amount.

## 5. ADMINISTRATIVE EXPENSES

- 5.1 All Administrative Expenses, including Preliminary Administrative Expenses, shall be paid from out of the Settlement Fund Amount, and GM shall not pay any additional amount toward Administrative Expenses.
- 5.2 The Parties will enter into a “**Joint Retention Agreement**” with the Settlement Administrator that will specify the permissible Administrative Expenses that GM agrees to pay from the Settlement Fund Amount for Administrative Expenses that are expected to be incurred before the Effective Date, including, but not limited to, costs associated with vendors retained to assist with delivering the Certification Notice to the Settlement Class, the development and implementation of the Settlement Website and the implementation of the Settlement Phone Number (as defined in Section 9.7) (the “**Preliminary Administrative Expenses**”). The Joint Retention Agreement will include a maximum amount to be determined in GM’s sole discretion that GM shall pay for the Preliminary Administrative Expenses.
- 5.3 GM agrees to pay, before the Effective Date, the Preliminary Administrative Expenses into the escrow account to be opened by the Settlement Administrator, and any payment out of the escrow account shall only be to the Settlement Administrator to pay invoices for Preliminary Administrative Expenses and only with the express written consent of GM and Co-Lead Counsel.
- 5.4 Any payment out of the escrow account by the Settlement Administrator pertaining to invoices for Administrative Expenses incurred on or after the Effective Date shall be subject to the express written consent of Co-Lead Counsel and GM.
- 5.5 If this Settlement Agreement is terminated pursuant to Section 13, any amount that GM agreed to pay in Preliminary Administrative Expenses less any unearned or unspent amount of such Preliminary Administrative Expenses and accrued interest in the escrow account on such Preliminary Administrative Expenses, which shall be promptly refunded to GM by the Settlement Administrator from the escrow account, shall be the full and total amount that GM shall be obligated to pay in this Settlement.



- 5.6 In the event that this Settlement Agreement is not terminated, any amount that GM agrees to pay in Preliminary Administrative Expenses shall be deducted from the remainder of the Settlement Fund Amount that GM shall pay pursuant to Section 6.1.

**6. PAYMENT OF SETTLEMENT FUND AMOUNT BALANCE**

- 6.1 Subject to the termination rights as set forth in Section 13, GM shall pay the Settlement Fund Amount, less any amount GM has paid for Preliminary Administrative Expenses, into the escrow account to be opened and maintained by the Settlement Administrator within thirty (30) days of the Effective Date.
- 6.2 If this Settlement Agreement is not terminated pursuant to Section 13, the Settlement Fund Amount together with the Plaintiffs' Counsel Fee Amount comprise the full and total amount that GM shall be obligated to pay in consideration of this Settlement. GM shall not, under any circumstances, be responsible for, or liable for, payment of any amount in this Settlement greater than the combined amount of the Settlement Fund Amount plus the Plaintiffs' Counsel Fee Amount.
- 6.3 The Settlement Administrator shall not pay out all or part of the monies in the escrow account except in accordance with Sections 5.3, 5.4 and 7.15 of this Settlement Agreement, as well as in accordance with an order of the Court(s).
- 6.4 **Apportionment of Net Settlement Amount.**

6.4.1 As to the portions of the Net Settlement Amount attributable to and for the Ontario Action and the Québec Actions, Actions Counsel stipulates, and the Defendants accept, that, based on GM's best available data, which shall be determinative, 80.24% of the Net Settlement Amount will be attributed to the settlement of the Ontario Action, and that 19.76% of the Net Settlement Amount will be attributed to the settlement of the Québec Actions.

## 6.5 Interest and Taxes.

6.5.1 Subject to Section 6.5.3, all interest earned on the Settlement Fund Amount until the Settlement Administrator conducts the calculation of settlement payments as stipulated in Section 4.2 shall form part of the Net Settlement Amount to be allocated by the Settlement Administrator to Eligible Claimants pursuant to Section 4.2 above. All interest earned on the Settlement Fund Amount after that date shall form part of the Unclaimed Balance.

6.5.2 Subject to Section 6.5.3, all taxes payable on any interest that accrues on the Settlement Fund Amount shall be paid from the Settlement Fund Amount. The Settlement Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Fund in the escrow account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Fund Amount shall be paid from the Settlement Fund Amount in the escrow account. The Settlement Administrator is entitled to withhold from the Settlement Fund Amount prior to disbursement of the Net Settlement Amount to Eligible Claimants an amount agreed to by the Parties to cover such tax liabilities that may be incurred after the commencement of distribution of the Net Settlement Amount to Eligible Claimants with any remainder after payment of taxes to form part of the Unclaimed Balance.

6.5.3 GM shall have no responsibility to make any filings relating to the escrow account and will have no responsibility to pay tax on any income earned by the Settlement Fund Amount or pay any taxes on the monies in the escrow account, unless this Settlement Agreement is terminated or invalidated, in which case the interest earned on the Settlement Fund Amount in the escrow account or otherwise shall be paid to GM, which, in such case, shall be responsible for the payment of any taxes on such interest.

6.6 **Remainder Funds.** Should there be any Unclaimed Balance of the Net Settlement Amount, those funds shall be distributed from the escrow account by the Settlement Administrator in the following manner:

6.6.1 For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, the percentage prescribed by the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2, shall be multiplied by the 19.76% of the Unclaimed Balance from the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4.

6.6.2 Any Unclaimed Balance from the 80.24% of the Net Settlement Amount attributed to the Ontario Action and/or the 19.76% of the Net Settlement Amount attributed to the Québec Actions, as stipulated in Section 6.4, shall be paid *cy-près* to a non-profit organization or organizations to be agreed to by GM and Co-Lead Counsel in writing, and approved by the Courts, less any amounts payable to Québec's *Fonds d'aide aux actions collectives*.

## 7. CLAIMS PROGRAM PROCESS AND ADMINISTRATION

7.1 The Claims Program shall commence with the acceptance of Claim Forms as soon as reasonably practicable after the Effective Date.

7.2 The Claim Form and Approval Notice shall be made available on the Settlement Website as soon as reasonably practicable following the Effective Date. The Settlement Administrator shall mail paper copies of the Claim Form and Approval Notice to Persons who request such copies.

7.3 Claimants may submit a Claim Form to the Settlement Administrator electronically through the Settlement Website or by email, or physically by mail to the Settlement Administrator.

7.4 Claim Forms must be submitted electronically or postmarked on or before the Claims Deadline in order for the Claimant to qualify as an Eligible Claimant. Claim Forms submitted electronically or postmarked after the Claims Deadline shall be

rejected by the Settlement Administrator as untimely, shall not be reviewed, and shall not qualify as an Eligible Claim.

7.5 It is a fundamental condition of this Settlement and the intention of the Parties that all Recall repairs must be completed on a Subject Vehicle by an authorized GM dealer on or before the Final Recall Repair Date for a Claim to become an Eligible Claim, unless the Claimant establishes that they no longer have possession, custody, or control of the Subject Vehicle and, therefore, have no ability themselves to have the Recall repairs performed.

7.6 To become an Eligible Claimant with an Eligible Claim, a Settlement Class Member must:

7.6.1 Submit to the Settlement Administrator a completed Claim Form on or before the Claims Deadline, and any additional documentation the Settlement Administrator may thereafter require, to establish that:

7.6.1.1 The Claimant owned or leased a Subject Vehicle on or before the Recall Announcement Date of the applicable Recall (no Person may submit more than one claim per individual Subject Vehicle);

7.6.1.2 The Claimant is not an Excluded Person; and

7.6.1.3 If GM's records supplied to the Settlement Administrator show that all repairs have not been completed for any Recalls relating to the Subject Vehicle, and the Claimant is the current owner or lessee of the Subject Vehicle:

- (a) then, on or before the Final Recall Repair Date, all repairs have been completed by an authorized GM dealer for any Recalls relating to the Subject Vehicle; or
- (b) the Subject Vehicle is no longer in the Claimant's possession, custody, or control.

GM has the option, in its sole discretion, to determine whether or not the documentation provided with respect to this Section 7.6.1.3 is sufficient, and GM may, in its sole discretion, delegate any such determination to the Settlement Administrator, in which case GM has the right to audit the Settlement Administrator's determinations before the Net Settlement Amount is distributed to Eligible Claimants. If GM does not exercise these options in regard to any particular Claim, the Settlement Administrator shall determine the sufficiency of such documentation for that Claim.

7.7 The Settlement Administrator shall review all Claims to ensure that the Claimants provide information that demonstrates:

7.7.1 that the VIN supplied by the Claimant for their Subject Vehicle is included on a list of VINs of Subject Vehicles supplied by GM to the Settlement Administrator, which list shall be determinative;

7.7.2 that the Claimant is not an Excluded Person;

7.7.3 that the Claimant is a current or former owner or lessee of a Subject Vehicle on or before the applicable Recall Announcement Date; and

7.7.4 if the data supplied to the Settlement Administrator by GM indicates that the Recall repairs have not been completed on the Subject Vehicle, that the Claimant no longer has possession, custody, or control of the Subject Vehicle, or, if they have possession, custody or control of a Subject Vehicle, that the Recall repair(s) have been performed on the Subject Vehicle on or before the Final Recall Repair Date.

7.8 The Settlement Administrator has the right to request verification of claim eligibility, including verification of the purchase, ownership, lease or resale of Subject Vehicles, and completion of the Recall repairs by an authorized GM dealer. If the Settlement Administrator determines that a Claimant has not sufficiently completed the Claim Form, or failed to submit all required or requested documentation, the Settlement Administrator shall send written notification to the

Claimant identifying the missing information (including by e-mail where the Claimant selects e-mail as their preferred method of communication) (“**Deficiency Notice**”).

7.9 The Settlement Administrator shall send a Claimant a Deficiency Notice if it determines that additional information is required to complete, verify, or substantiate the Claim. Such information includes but is not limited to:

7.9.1 if the Claimant did not complete all sections of the Claim Form;

7.9.2 if the Claimant submitted insufficient vehicle information on the Claim Form;

7.9.3 if documentation is required to substantiate and/or verify the information contained in the Claim Form; and/or

7.9.4 if the Claim Form is not signed.

7.10 The Claimant shall have thirty (30) days from the postmark date or email sent date of the Deficiency Notice to submit the requested information or documentation. If the Claimant does not timely submit their response on or before said thirty (30) days, the Claim shall be deemed invalid, ineligible, and not paid.

7.11 The Settlement Administrator shall utilize data supplied by GM to determine whether the Recall repair(s) were performed on the Subject Vehicle. If the GM data indicates that the Recall repair(s) have not yet been performed and the Claimant is the current owner or lessee of the Subject Vehicle, the Settlement Administrator shall send a “**Recall Repair Deficiency Notice**” to the Claimant identifying the incomplete Recall repair(s) that must be completed by an authorized GM dealer on or before the Final Recall Repair Date. The Settlement Administrator may require confirmation and documentary proof (e.g. a repair order on an authorized GM dealer's form) from the Claimant of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle, which must be on or before the Final Recall Repair Date, and the authorized GM dealer at which the outstanding

Recall repair(s) were performed, or the Settlement Administrator may rely on updated data supplied by GM to verify that the Recall repair(s) have been completed on or before the Final Recall Repair Date.

- 7.12 A Claimant who receives a Recall Repair Deficiency Notice must obtain the outstanding Recall repair(s) for the Subject Vehicle on or before the Final Recall Repair Date, and, if requested by the Settlement Administrator, must submit to the Settlement Administrator documentary proof (e.g. a repair order on an authorized GM dealer's form) of the date on which the outstanding Recall repair(s) were performed on the Subject Vehicle and the authorized GM dealership at which the outstanding Recall repair(s) were performed on the Subject Vehicle on or before thirty (30) days after the Final Recall Repair Date. If the Claimant does not timely respond to the Recall Repair Deficiency Notice on or before said thirty (30) days after the Final Recall Repair Date, the Claim shall be deemed invalid, ineligible, and not paid.
- 7.13 The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claims Program. The Settlement Administrator may, in its discretion, deny in whole or in part any Claim to prevent actual or possible fraud and abuse and shall report any such fraud or abuse to Co-Lead Counsel, GM and to law enforcement authorities.
- 7.14 If the Settlement Administrator's review establishes that a Claim clearly demonstrates eligibility for a payment and is an Eligible Claim, the Settlement Administrator shall approve the Claim and process it in accordance with Section 4.3, including determining to which Subclass(es) the Eligible Claimant belongs and the amount of the payment to the Eligible Claimant. With the exception of the options granted to GM in Section 7.6.1.3, the decisions of the Settlement Administrator with respect to the eligibility or ineligibility of any Claim and amount of payment shall be final and binding on a Claimant and all Parties with no right of appeal to any court.

- 7.15 As soon as practicable following the Final Recall Repair Date plus any required cure period for deficiencies, the Settlement Administrator shall report to Co-Lead Counsel and GM the particulars of the proposed distribution of settlement payments to Eligible Claimants. No distribution of settlement monies from the escrow account shall occur without the express written approval of both Co-Lead Counsel and GM. The Settlement Administrator shall distribute settlement payments to Eligible Claimants as soon as practicable following the express written approval of both Co-Lead Counsel and GM.
- 7.16 The Settlement Administrator shall pay an Eligible Claim via issuance of a cheque sent by regular mail to the mailing address provided by the Eligible Claimant or by direct deposit to the bank account provided by the Eligible Claimant. Cheques not cashed by an Eligible Claimant within one-hundred and eighty (180) days of issuance will become stale-dated, not eligible for redemption and form part of the Unclaimed Balance. There will be no obligation to reissue stale-dated cheques.
- 7.17 Upon the completion of the Claims Program, Claimants shall be able to view the Settlement Website or otherwise contact the Settlement Administrator for information about their Claim.
- 7.18 The Settlement Administrator shall prepare periodic reports on the progress and status of the Claims Program that shall be provided to GM and Co-Lead Counsel. Unless otherwise reasonably requested by GM or Co-Lead Counsel, the Settlement Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter until one-hundred and eighty (180) days after the issuance of payments to Eligible Claimants. These reports shall include information sufficient to allow GM and Co-Lead Counsel to assess the Claims Program's progress. The Parties may request that the Settlement Administrator include specific information within the reports to facilitate the assessment of the Claim Program's progress.
- 7.19 When the Claims Program is concluded, the Settlement Administrator is to provide a final report to the Courts, GM and Co-Lead Counsel, detailing the number of



Eligible Claimants that received benefits under the Settlement, the total value of those benefits in each Subclass and the individual payments to be made to each Eligible Claimant in each Subclass. After one-hundred and eighty (180) days have passed since the issuance of payments to Eligible Claimants, the Settlement Administrator is to promptly provide a report to GM and Co-Lead Counsel including an accounting of the Unclaimed Balance.

7.20 No materials submitted by any Claimant will be returned to such Claimant. The Settlement Administrator shall be permitted to dispose of any materials submitted by a Claimant after the conclusion of the Claims Program.

7.21 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating Claims and paying Eligible Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary, to the Settlement Administrator, GM, Co-Lead Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by GM to comply with obligations to regulators in Canada. The Settlement Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information.

## **8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT**

8.1 The Parties agree to collaborate and cooperate regarding the form and content of all proposed orders submitted to the Courts in the Actions and to the courts in the Related Actions. The form and content of all such proposed orders shall be approved by the Parties before they are submitted to a court.

8.2 Subject to the termination rights set out in Section 13, the Parties and their successors, assigns, and counsel agree to use best and good faith efforts to obtain prompt approval of this Settlement Agreement by the Courts without modification.

- 8.3 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “F”**, announcing this Settlement following the entry of the Certification Orders by both Courts.
- 8.4 The Parties shall cooperate in the preparation of, and approve, a joint or respective press release, that is substantially in the form attached to this Settlement Agreement as **Schedule “G”**, providing a reminder to Settlement Class Members to file Claims following the entry of the Approval Orders by both Courts and before the Claims Deadline.
- 8.5 Aside from such joint or respective press releases, neither the Parties nor Actions Counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement, unless otherwise agreed to in writing by the Parties.
- 8.6 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.7 The Parties agree to cooperate and make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the Administration Expenses, are reasonable.
- 8.8 The Parties and their successors, assigns, and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for GM and Co-Lead Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Settlement Administrator.

8.9 In the event that the Parties are unable to reach an agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, GM and Co-Lead Counsel may seek the assistance of the Courts to resolve such matters.

## 9. NOTICE TO THE CLASS

9.1 **Notice Program.** The Notice Program utilized to provide notice of this Settlement to the Settlement Class shall be approved in the Certification Orders. Following the entry of the Certification Orders, the Notice Program shall be effectuated in the manner directed and approved by the Courts. The Parties agree that the Notice Program and methods of notice therein described are valid and effective to provide practicable notice to the Settlement Class.

9.2 GM shall have no additional obligations to pay for any aspect of the Notice Program other than paying the Preliminary Administrative Expenses, and, if all conditions are met, the balance of the Settlement Fund Amount. The Parties shall have the right but not the obligation to monitor, inspect and audit the costs associated with the Notice Program.

9.3 **Settlement Class Information.** Based on customer contact information in GM's possession, to the extent such information was registered by customers with GM, GM will make reasonable efforts to compile a list of names, email addresses and mailing addresses of Settlement Class Members. This information shall be delivered to the Settlement Administrator prior to the date the Certification Notice is to be disseminated pursuant to the Notice Program.

9.4 If this Settlement Agreement is terminated or invalidated, all information provided by GM pursuant to Section 9.3 shall be destroyed forthwith, no record of the information so provided shall be retained by Actions Counsel or the Settlement Administrator in any form whatsoever.

9.5 The Parties will work co-operatively to leverage existing data which GM may have in its possession that can be used by the Settlement Administrator to find efficient ways to effect notice and assist Claimants in filling out Claim Forms, including, but not limited to (a) utilizing ownership and lessee data, including email, if available, to provide direct notice to Settlement Class Members; and (b) providing the data to the Settlement Administrator to “auto-populate” Claim Forms, to the extent possible in accordance with Canadian law and privacy obligations.

9.6 **Certification Notice.** Details regarding the Short-Form Certification Notice and a Long-Form Certification Notice are set forth below:

9.6.1 **Short-Form Certification Notice.** Short-Form Certification Notices in English and French shall be disseminated in accordance with the Notice Program. These Short-Form Certification Notices shall include details of where to access the Settlement Website on which English and French versions of the Long-Form Certification Notice shall be made available. The Short-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “B”**.

9.6.2 **Long-Form Certification Notice.** The Long-Form Certification Notice shall: (a) state that this Settlement Agreement is contingent upon entry of the Required Orders; (b) advise Settlement Class Members that they may elect to opt out of the Settlement Class by submitting a written statement providing the information required by Section 10.3 to the Settlement Administrator prior to the Opt Out Deadline; (c) advise Settlement Class Members that they may object to this Settlement Agreement by submitting a written statement of objection clearly specifying the grounds for the objection and providing the information required by Section 10.3 to the Settlement Administrator no later than the Objection Deadline; (d) advise that any Settlement Class Member may enter an appearance at the Settlement Approval Motion, including through counsel of their choice at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of their intention to opt out of the Settlement Class will be bound

by the Approval Orders in the Actions, including the Settlement Class Release included therein. The Long-Form Certification Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “C”**. The Long-Form Certification Notice shall be posted on the Settlement Website and shall be emailed or mailed to any Person requesting a copy from the Settlement Administrator.

9.7 **Settlement Phone Number.** The Settlement Administrator shall establish and manage a Canadian toll-free phone number as soon as reasonably practicable after the entry of the Certification Orders which Settlement Class Members can call to receive automated information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining the Long-Form Certification Notice of this Settlement Agreement described in Section 9.6.2 or any other materials described in Section 9.6; (c) the Objection Deadline and Opt-Out Deadline; (d) how to submit a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Motion (the “**Settlement Phone Number**”). The information accessible through the Settlement Phone Number shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

9.8 **Settlement Website.** The Settlement Website shall be functional and accessible as soon as practicable after the entry of the Certification Orders. The domain name of the Settlement Website must be approved by the Parties in writing. The Settlement Website will have additional functionality to facilitate the submission of Claims as soon as reasonably practicable following the Effective Date. The Settlement Website shall include, in PDF format, content agreed upon by the Parties and/or as required by the Court, and shall inform Settlement Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, the precise content of which shall be subject to written approval of the Parties, including, but not limited to, the following information once known and/or existing:

9.8.1 The Opt-Out Deadline, the Objection Deadline, the Claims Deadline, and the Final Recall Repair Date;

- 9.8.2 The procedure for opting out of, or objecting to, the Settlement;
- 9.8.3 The date of the Settlement Approval Hearing;
- 9.8.4 Contact information for the Settlement Administrator including the Settlement Phone Number and an email address through which Settlement Class Members may send questions to the Settlement Administrator;
- 9.8.5 Copies of this Settlement Agreement with signatures redacted, the Certification Notice, the Approval Notice, the Certification Orders and the Approval Orders;
- 9.8.6 Instructions on how to obtain benefits under this Settlement;
- 9.8.7 A searchable VIN interface (i.e. VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- 9.8.8 A mechanism by which Claimants can electronically submit Claim Forms to pursue a Claim;
- 9.8.9 A mechanism by which Settlement Class Members can sign up to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy;
- 9.8.10 Any orders issued in the Actions or Related Actions relevant to this Settlement; and
- 9.8.11 Any other information the Parties determine is relevant to the Settlement.

9.9 **Settlement Approval Notice.** The Settlement Administrator shall disseminate the Approval Notice in English and French in accordance with the Notice Program. The Settlement Approval Notice shall: (i) advise Settlement Class Members that this Settlement Agreement has been approved by the Courts in the Approval Orders; and (ii) include details of how to make a Claim and where to access the Settlement

Website. The Settlement Approval Notice shall be substantially in the form attached to this Settlement Agreement as **Schedule “D”**.

**10. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT**

10.1 The Settlement Administrator shall receive any (a) written elections to opt out of the Settlement Class and (b) objections to this Settlement.

10.2 To be valid, elections to opt out of the Settlement Class and objections to this Settlement must be received by the Settlement Administrator by mail, courier, or e-mail on or before the Opt-Out Deadline or Objection Deadline, as applicable.

10.3 All written elections to opt out of the Settlement Class and objections to this Settlement Agreement shall be personally signed by the purported Settlement Class Member and shall include the following:

10.3.1 The purported Settlement Class Member’s name, mailing address, telephone number, and e-mail address (if available);

10.3.2 Proof that the Person is a Settlement Class Member, including proof of the dates of ownership or lease of the Subject Vehicle and a statement that the Person is not an Excluded Person;

10.3.3 The make, model, model year, and VIN of the Person’s Subject Vehicle;

10.3.4 A statement that the purported Settlement Class Member elects to be excluded from the Settlement Class, or a brief statement of the nature of and reason for the objection to this Settlement, as applicable;

10.3.5 If objecting to this Settlement, whether the potential Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

10.4 Notwithstanding Section 10.3, if the purported Settlement Class Member is deceased, a minor, or otherwise incapable of making their own election to opt out or

their own written objection to this Settlement, the information required by Section 10.3 must be provided along with the contact information of the person acting on behalf of the purported Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the purported Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a purported Settlement Class Member, except in the circumstances set out in this Section.

- 10.5 Settlement Class Members who elect to opt out of the Settlement Class may re-elect in writing to become Settlement Class Members, if their re-election request is received by the Settlement Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be members of the National Settlement Class or the Québec Settlement Class, or by written agreement of GM and Co-Lead Counsel.
- 10.6 Any Settlement Class Member who elects to opt out of the Settlement Class may not also object to this Settlement Agreement, subject to Section 10.5. If a Settlement Class Member elects to opt out of the Settlement Class and also objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 10.7 All Settlement Class Members who do not opt out in a timely and proper manner will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Courts in the Approval Orders.
- 10.8 Any Settlement Class Member who objects to this Settlement shall be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved by the Courts in the Approval Orders, as long as the objecting Settlement Class Member complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely submission of a Claim and other requirements herein.



- 10.9 The Settlement Administrator shall provide copies of all opt-out elections and objections categorized by Subject Vehicle to GM counsel and Co-Lead Counsel on a weekly basis after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes expense.
- 10.10 The Settlement Administrator shall, no later than seven (7) days before the Settlement Approval Hearing, provide to GM and Co-Lead Counsel and file with the Court an affidavit reporting on the number of opt-out elections and re-elections received on or before the Opt-Out Deadline, and compiling all of the written objections received on or before the Objection Deadline, and to the extent possible, detailing the number of opt-outs and written objections categorized by Subject Vehicle.
- 10.11 The Parties have agreed to a confidential number of Opt-Outs, and will provide this number to both Courts in a document to be kept under seal by both Courts pursuant to the Parties' joint request until the Settlement Approval Hearings. If the number of Opt-Outs is greater than the confidential number agreed to by the Parties, then GM shall have the unilateral right, but not the obligation, to terminate this Settlement Agreement. GM shall advise the Courts and Co-Lead Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Settlement Administrator referred to in Section 10.10. In such event, this Settlement Agreement shall be null, void, of no force or effect, and may not be offered or received into evidence or utilized for any other purpose in the Actions, Related Actions or in any other claim, action, suit or proceeding.

## **11. SETTLEMENT CLASS MEMBERS' RELEASE**

- 11.1 The Parties agree that the Settlement Class Members' Release as set forth in this Section 11 inclusive of 11.1 to 11.17, shall take effect upon the Effective Date.
- 11.2 It is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle

shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only.

- 11.3 In consideration of this Settlement Agreement inclusive of the valuable consideration from GM set forth herein at Sections 4, 5, 6, 11 and elsewhere, effective automatically as of the Effective Date, the Releasing Parties fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, arbitrations, mediations, liabilities, suits, petitions, rights, damages and causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any and all Released Parties, arising out of, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls (individually and collectively, the “**Released Claims**”). Released Claims include, without limitation, any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, derivative or direct, asserted or un-asserted, whether or not concealed or hidden, due to, resulting from, connected with, or involving or relating in any way to, directly or indirectly, the subject matter of the Actions, Related Actions or Recalls, including without limitation (a) any claims that were or could have been asserted in the Actions or Related Actions or were the subject matter of the Actions, the Related Actions, or the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, loss of use or enjoyment (due to alleged mental/emotional/psychological distress, anxiety, fear or otherwise), sale, lease and/or resale of the Subject Vehicles or alleged mental/emotional/psychological distress, anxiety, or fear not attributable to a motor vehicle accident involving a Subject Vehicle; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary damages, liens, injunctive relief, counsel, expert, consultant, or other litigation fees or costs (other than the

Settlement Fund Amount and Plaintiffs' Counsel Fee Amount to be awarded by the Courts in connection with this Settlement Agreement), and any other liabilities that were or could have been asserted in any civil, criminal, administrative, or other proceeding, including arbitration. Released Claims also include without limitation any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature on which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, tort, breach of contract, fraud, breach of statute, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the subject matter of the Actions, Related Actions, and/or Recalls.

- 11.4 Notwithstanding the foregoing, this Settlement Agreement does not release, and the definition of Released Claims does not include, any individual claims for wrongful death, personal injury (and related family/dependent claims) or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but does release, and the definition of Released Claims does include, class or representative claims for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle. For the avoidance of doubt, a Settlement Class Member may pursue an individual claim or proceeding for wrongful death, personal injury (and related family/dependent claims) and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle, but a Settlement Class Member shall not threaten, commence, participate in (as a class member or otherwise), continue, or act as a class representative or in any representative capacity in, any class or representative claim, suit, action or proceeding involving such claims against any Released Party anywhere, and shall cause any such claim, suit, action or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.

- 11.5 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under this Settlement Agreement, and the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement. For the avoidance of doubt, Co-Lead Counsel and the Settlement Class Representatives expressly understand and acknowledge that they and/or other Releasing Parties may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions, the Related Actions, the Recalls and/or the Settlement Class Members' Release. Nevertheless, it is the intention of Co-Lead Counsel and the Settlement Class Representatives in executing or authorizing the execution of this Settlement Agreement and obtaining the Approval Orders that the Releasing Parties shall fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.
- 11.6 The Releasing Parties shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding, whether in Canada or elsewhere, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other Person, with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Members' Release. To the extent that the Releasing Parties have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, the Related Actions or the Recalls, whether in Canada or elsewhere, they shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with Section 14.1.
- 11.7 If a Releasing Party commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal,

provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Releasing Party's cost, be brought to an end, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all related costs and expenses, including legal costs and disbursements, from that Releasing Party arising as a result of that Releasing Party's breach of their obligations under this Settlement Class Members' Release and the Settlement Agreement, provided that the Released Party provides written notice to the Releasing Party of their alleged breach and an opportunity to cure the breach.

- 11.8 For the avoidance of doubt, each Releasing Party is prohibited from instituting, continuing, maintaining or asserting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any suit, action, proceeding, cause of action, claim, or demand against any Released Party or any other Person who may claim contribution, indemnity or other claims of relief over from any Released Party, in respect of any matter related to the Released Claims, and any such claim shall be immediately brought to an end consistent with Section 14.1 and the Parties shall cooperate and request any court in which such claim is or has been commenced to order the immediate dismissal of same with prejudice. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.
- 11.9 Settlement Class Members expressly agree that this Settlement Class Members' Release, the Certification Orders and the Approval Orders are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Members' Release whether in Canada or elsewhere, without regard to whether any Settlement Class Member submits a Claim, has a Claim rejected by the Settlement Administrator, or receives any payment pursuant to this Settlement.

- 11.10 The Releasing Parties expressly waive, relinquish, release with prejudice, and covenant not to exercise, and shall be deemed to have waived, relinquished, released with prejudice, and covenanted not to exercise, any and all rights and/or claims that they may have under any law, statute, regulation, adjudication, quasi-adjudication, decision, administrative decision, common law principle, or any other theory or source, that would otherwise limit the effect of the Settlement Class Members' Release, including but not limited to any law that might limit a release to those claims or matters actually known or suspected to exist at the time of execution of the release.
- 11.11 The Settlement Class Members who are not Opt-Outs represent and warrant that they are the sole and exclusive owners and holders of any and all Released Claims released under this Settlement Agreement. The Settlement Class Members who are not Opt-Outs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned, subrogated or encumbered, whether through insurance, indemnification, or otherwise, any right, title, interest, or claim arising out of or in any way whatsoever pertaining to the Actions, Related Actions, Recalls or their Released Claims, including without limitation, any claim for benefits, proceeds, or value under the Actions, the Related Actions or due to the Recalls, and that they are not aware of any insurers, indemnitors, subrogees, or anyone other than themselves claiming any interest, in whole or in part, in the Actions, Related Actions, Recalls or their Released Claims or in any benefits, proceeds, or values to which they may be entitled under the Actions, Related Actions, Recalls or as a result of their Released Claims.
- 11.12 Without in any way limiting its scope, and except with respect to the Plaintiffs' Counsel Fee Amount, the Settlement Class Members' Release includes, by example and without limitation, a release of Released Parties by the Releasing Parties from any and all claims for counsel's fees, costs, expert fees, consultant fees, interest, litigation fees, costs or any other fees, costs and/or disbursements incurred by any lawyers, Co-Lead Counsel, Actions Counsel, Settlement Class Representatives or

Settlement Class Members who claim to have assisted in conferring the benefits under this Settlement upon the Settlement Class.

- 11.13 Any and all benefits paid by GM pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims of the Releasing Parties against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Members' Release. The Settlement Class Members' Release shall be irrevocably binding upon all Releasing Parties.
- 11.14 This Settlement Class Members' Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members who do not opt out, regardless of whether those Settlement Class Members submit a Claim, have their Claim rejected by the Settlement Administrator, or receive compensation under this Settlement Agreement.
- 11.15 Nothing in the Settlement Class Members' Release shall preclude any action to enforce the terms of this Settlement Agreement, or claims arising out of, based upon, relating to, concerning, or in connection with the interpretation or enforcement of the terms of this Settlement. Nothing in the Approval Orders shall bar any action by any of the Parties to enforce or effectuate the terms of this Settlement Agreement and the Approval Orders.
- 11.16 The Settlement Class Representatives and Co-Lead Counsel hereby agree and acknowledge that this Section 11 was separately bargained for and constitutes a key, material term of this Settlement Agreement, and shall be reflected in the Approval Orders.
- 11.17 A Settlement Class Member shall fully indemnify the Released Parties and hold the Released Parties harmless for any breach by the Settlement Class Member of this Settlement Agreement including, without limitation, full indemnification of the Released Parties for all legal costs and disbursements incurred by the Released Parties to enforce this Settlement Agreement.

**12. PLAINTIFFS' COUNSEL FEE AMOUNT**

- 12.1 Pursuant to motions brought before the Courts without any opposition from GM, Co-Lead Counsel shall seek the Plaintiffs' Counsel Fee Amount Orders. The monies awarded by the Courts through the Plaintiffs' Counsel Fee Amount Orders shall be the sole compensation paid by GM to all lawyers who represent any Person asserting economic loss claims pertaining to the Actions and the Related Actions. In no event and under no circumstances shall GM pay any amount in counsel fees and expenses greater than the Maximum Plaintiffs' Counsel Fee Amount.
- 12.2 Co-Lead Counsel agree and covenant that, regardless of any orders, judgments, decisions, awards, or any other basis, they shall not claim, seek, attempt to recover, accept, execute on, or collect on any costs or fees in excess of the Maximum Plaintiffs' Counsel Fee Amount.
- 12.3 The Plaintiffs' Counsel Fee Amount is payable by GM by the later of thirty (30) days after the Effective Date or the entry of both Plaintiffs' Counsel Fee Amount Orders. If the Required Orders do not become Final, the Effective Date is not achieved or both Plaintiffs' Counsel Fee Amount Orders are not entered, GM shall have no obligation to pay any of the Plaintiffs' Counsel Fee Amount.
- 12.4 The Plaintiffs' Counsel Fee Amount paid by GM to Co-Lead Counsel shall be allocated by Co-Lead Counsel among any and all plaintiffs' counsel, including Co-Lead Counsel and Actions Counsel, who represent any Person in the Actions and Related Actions, including purported Settlement Class Members, as Actions Counsel deem fit. The Settlement Agreement shall not be in any way affected by, nor shall any of the Released Parties have any liability for, any dispute that exists or later arises with respect to the distribution or allocation of the Plaintiffs' Counsel Fee Amount.
- 12.5 The proceedings related to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount are to be considered separately from the Courts' approval of the Settlement. The Plaintiffs' Counsel Fee Amount Orders are to be separate and distinct from the Approval Orders so that any appeal from the



Plaintiffs' Counsel Fee Amount Orders shall not constitute an appeal of the Approval Orders. Any order or proceedings relating to Co-Lead Counsel's request for the Courts' approval of the Plaintiffs' Counsel Fee Amount, or any appeal from the Plaintiffs' Counsel Fee Amount Orders, or reversal or modification thereof, shall not operate to terminate, cancel, or modify this Settlement Agreement, or affect or delay the entry of the Required Orders.

**13. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

- 13.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and, if necessary, approval by the Courts, provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class Members or approval by the Court if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.
- 13.2 GM shall have the right, in its sole discretion, to terminate this Settlement Agreement in the event any of the following conditions occur: (a) one or more of the Required Orders are not entered or do not become Final; (b) the Plaintiffs' Counsel Fee Amount Orders award a Plaintiffs' Counsel Fee Amount in excess of the Maximum Plaintiffs' Counsel Fee Amount; (c) any portion or provision of the Settlement Class Members' Release detailed in Section 11 is held in whole or in part to be invalid, illegal or unenforceable in any respect; (d) more than a confidential number of Settlement Class Members opt out of the Settlement as provided for in Section 10.11; and/or (e) the confidentiality provision stipulated in Section 15.13 of this Settlement Agreement is violated.
- 13.3 This Settlement Agreement shall terminate at the discretion of GM, or the Settlement Class Representatives, through Co-Lead Counsel, if: (a) a court, or any appellate court therefrom, rejects, nullifies, modifies, refuses to enforce, or denies

approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline); or (b) a court, or any appellate court therefrom, does not enter or completely affirm, or alters, nullifies, narrows, expands, or refuses to enforce, any portion of the Required Orders (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline, or Objection Deadline). The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other Parties no later than twenty (20) business days after receiving notice of the event prompting the termination.

13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13, neither GM nor the Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

13.5 If this Settlement Agreement is terminated pursuant to this Section 13, then:

13.5.1 the Parties shall be returned to their positions *status quo ante* with respect to the Actions and Related Actions;

13.5.2 this Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of 5.5, 6.5.3, 7.21, 9.4, 11.16, 11.17, 15.1, 15.2, 15.10 and 15.13, and the definitions and any exhibits and schedules applicable thereto;

13.5.3 no motion or application to certify or authorize an Action or Related Action as a class action on the basis of the Settlement Agreement shall proceed;

13.5.4 any order certifying or authorizing an Action as a class action on the basis of the Settlement Agreement, and any other settlement-related orders or judgments entered in the Actions after the date of execution of this Settlement Agreement, shall be null and void and shall have no force or effect and the Parties shall cooperate with each other to carry out any necessary changes in court files to give effect to this provision;

13.5.5 all of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of GM, the Settlement Class Representatives, and any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

13.5.6 the Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defences, arguments, and motions as to all causes of action and claims that have been or might later be asserted in the Actions or Related Actions, including, without limitation, the argument that the Actions or Related Actions may not be litigated as class actions;

13.5.7 the Settlement Class Representatives, and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions or Related Actions including, without limitation, any argument concerning class certification/authorization, liability, or damages;

13.5.8 neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;

13.5.9 within ten (10) business days, Actions Counsel shall return, or cause to be returned, to GM any and all amounts paid in respect of the Plaintiffs' Counsel Fee Amount and the Settlement Administrator shall return, or cause to be returned, to GM any unearned or unspent portion of the Settlement Fund Amount or Preliminary Administrative Expenses; and

13.5.10 within ten (10) business days, Actions Counsel and the Settlement Administrator shall destroy all non-public information provided to them by GM in

connection with this Settlement and its negotiation and, to the extent Actions Counsel and/or the Settlement Administrator have disclosed any non-public information provided by GM in connection with this Settlement Agreement, Actions Counsel and/or the Settlement Administrator shall recover and destroy such information. Actions Counsel and the Settlement Administrator shall provide GM with a written certification of such destruction.

#### **14. TERMINATION OF ACTIONS AND JURISDICTION OF THE COURTS**

- 14.1 Co-Lead Counsel and GM agree to cooperate and take all steps as are necessary to give effect to this Settlement Agreement and to bring a final end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions, the Related Actions and in any other pending or future litigation in any way related to the Released Claims. The Parties agree that the conclusion of any litigation as set out in this Section 14 shall not alter, negate or otherwise have any impact or effect on the Settlement Class Members' Release.
- 14.2 The Courts shall retain exclusive jurisdiction over any Discontinuance Order, Amendment Order, Certification Orders, Approval Orders, and Plaintiffs' Counsel Fee Amount Orders issued in the Actions commenced in their respective jurisdictions. The Ontario Superior Court of Justice shall retain ongoing and exclusive jurisdiction to resolve any dispute that may arise in relation to the validity, performance, interpretation, enforcement, enforceability, or termination of this Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section 14, except that any dispute specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.
- 14.3 If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable

opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.

- 14.4 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

**15. OTHER GENERAL TERMS AND CONDITIONS**

- 15.1 This Settlement Agreement makes no factual findings or conclusions of law. It is agreed that, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or allegations contained in the Actions, the Related Actions or in any pleading or civil, criminal, regulatory or administrative proceeding filed against any Released Party. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense. GM has denied and continues to deny each and all of the claims and contentions alleged in the Actions and the Related Actions, and has denied and continues to deny that GM has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Actions or the Related Actions. GM believes that it has valid and complete defenses to the claims asserted in the Actions and the Related Actions, and denies that GM committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Actions or the Related Actions. GM further believes that no class could be certified/authorized or maintained for litigation or for trial. Nonetheless, GM has concluded that it is desirable that the Actions and the Related

Actions be fully and finally settled on the terms and conditions set forth in this Settlement Agreement.

- 15.2 It is agreed that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.
- 15.3 This Settlement Agreement shall be binding upon, and enure to the benefit of GM, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.
- 15.4 The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.
- 15.5 The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Co-Lead Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Members' Release, and the legal effect of this Settlement Agreement and the Settlement Class Members' Release.
- 15.6 Co-Lead Counsel acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement, to recommend the approval of this Settlement Agreement to the Courts, and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or

inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

- 15.7 Co-Lead Counsel represent that (a) Co-Lead Counsel are authorized by the plaintiffs in the Actions and the Related Actions to enter into this Settlement Agreement; and (b) Co-Lead Counsel are seeking to protect the interests of the Settlement Class.
- 15.8 Co-Lead Counsel further represent that the Settlement Class Representatives: (a) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (b) are willing, able, and ready to perform all of the duties and obligations of representatives of the Settlement Class; (c) have authorized Co-Lead Counsel to execute this Settlement Agreement on their behalf; and (d) shall remain and serve as representatives of the Settlement Class and Subclasses until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Settlement Class Representatives cannot represent the Settlement Class.
- 15.9 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior, subsequent or concurrent breach of this Settlement Agreement.
- 15.10 If the Effective Date does not occur, or the Settlement is terminated pursuant to Section 13, then this Settlement Agreement, and the certification of the Settlement Class (and Subclasses) provided for herein, shall be vacated and the Actions and Related Actions shall proceed as though the Settlement Class (and Subclasses) had never been certified, without prejudice to any Party's position on the issue of class certification/authorization or any other issue. The Parties shall cooperate with each other to carry out the necessary changes in court files to give effect to this provision.
- 15.11 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this

Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.

- 15.12 The Parties reserve the right to agree in writing to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 15.13 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties. Information provided by GM, Co-Lead Counsel, Actions Counsel, any individual Settlement Class Member, or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and confidential and proprietary business information, shall be kept strictly confidential, except as may be expressly required (i) by law, (ii) by applicable provincial rules of professional responsibility, (iii) order of a court of competent jurisdiction over disclosing party's objection and after at least twenty-one (21) days prior written notice to GM and its counsel and a reasonable opportunity to intervene, (iv) with the express written consent of GM, directly or through its counsel, or (v) as otherwise described in this Settlement Agreement. In no circumstances shall any confidential information be disclosed for any reason without GM's prior written authorization.
- 15.14 The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the motions for the Certification Orders are filed; provided, however, that this Section shall not prevent GM from disclosing such information, prior to that date, to provincial and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, or if required by law or regulation. Nor shall the Parties and their



counsel be prevented from disclosing such information to persons or entities (such as experts, courts, legal counsel, and/or administrators) to whom the Parties agree in writing disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.

- 15.15 The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.
- 15.16 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. If requested by the Québec Court, a translation firm selected by Co-Lead Counsel shall prepare a French translation of this Settlement Agreement after its execution. The Parties agree that such translation is for convenience only. The cost of such translation shall be paid from the Settlement Fund Amount as a Preliminary Administrative Expense or Administrative Expense. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.
- 15.17 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to GM, then to:

Cheryl Woodin or Michael Smith  
 BENNETT JONES LLP  
 3400 One First Canadian Place  
 100 King Street West

Toronto, ON M5X 1A4  
 E-mail: woodinc@bennettjones.com  
 smithmc@bennettjones.com

If to the Settlement Class  
 Representatives or Settlement  
 Class, then to:

Won J. Kim  
 KIM SPENCER McPHEE BARRISTERS  
 P.C.  
 1203-1200 Bay Street  
 Toronto, ON M5R 2A5  
 E-mail: wjk@complexlaw.ca

AND

Joel P. Rochon or Ron Podolny  
 ROCHON GENOVA LLP  
 121 Richmond Street West, Suite 900  
 Toronto, ON M5H 2K1  
 E-mail: jrochon@rochongenova.com  
 rpodolny@rochongenova.com

- 15.18 The Settlement Class, Settlement Class Representatives and GM shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.
- 15.19 The division of this Settlement Agreement into Sections and the insertion of topic and Section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 15.20 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with legal counsel and the assistance of The Honourable Justice Thomas Cromwell as mediator.
- 15.21 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 15.22 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if


necessary, the aid of the Court(s) and/or, by agreement of GM and Co-Lead Counsel.

15.23 The Parties represent and warrant that the individuals executing this Settlement Agreement are authorized to enter into this Settlement Agreement on their behalf.

15.24 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.

15.25 The Parties have executed this Settlement Agreement as of the date on the cover page.

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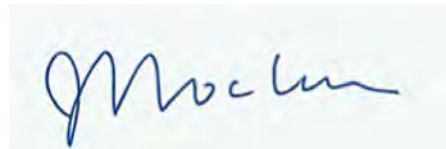
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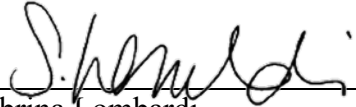
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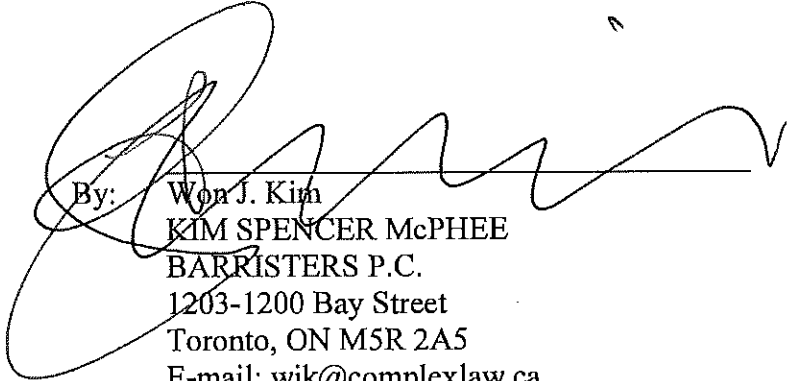
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## Schedule "A" – General List of Subject Vehicles\*

	<b>Make and Model</b>	<b>Years</b>
<b>Delta Ignition Switch Recall</b>  (Transport Canada Recall Numbers 2014-038, 2014-060, 2014-101)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2006-2011
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac Solstice	2006-2010
	Saturn Ion	2003-2007
	Saturn Sky	2007-2009
<b>Key Rotation Recall</b>  (Transport Canada Recall Numbers 2014-246, 2014-273, 2014-284)	Buick Allure	2005-2009
	Buick Lucerne	2006-2011
	Buick Regal	2004
	Cadillac CTS	2003-2014
	Cadillac Deville	2000-2005
	Cadillac DTS	2006-2011
	Cadillac SRX	2004-2006
	Chevrolet Impala	2000-2013
	Chevrolet Monte Carlo	2000-2007
	Chevrolet Malibu	1997-2005
	Oldsmobile Alero	1999-2004
	Oldsmobile Intrigue	1998-2002
	Pontiac Grand Am	1999-2005
	Pontiac Grand Prix	2004-2008
<b>Camaro Knee-Key Recall</b>  (Transport Canada Recall Number 2014-243)	Chevrolet Camaro	2010-2014
<b>Electric Power Steering Recall</b>  (Transport Canada Recall Number 2014-104)	Chevrolet Cobalt	2005-2010
	Chevrolet HHR	2009-2010
	Chevrolet Malibu	2004-2006 and 2008-2009
	Chevrolet Malibu Maxx	2004-2006
	Pontiac G5	2007-2010
	Pontiac G5 Pursuit	2006
	Pontiac Pursuit	2005-2006
	Pontiac G6	2005-2006 and 2008-2009
	Saturn Aura	2008-2009
	Saturn Ion	2004-2007

\*Of the above general list, only those vehicles with a Vehicle Identification Number that is included in the Recall(s) are included as Subject Vehicles.

## Schedule “B” – Short-Form Certification Notice

### If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.

*Pour une notice en Français, visitez [insert website].*

A proposed nationwide class settlement of economic loss claims by persons who are current or former owners or lessees of certain GM vehicles that were recalled in 2014 will be submitted for approval to the Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to a Settlement to avoid the risk and cost of further litigation. **The purpose of this Notice is to inform you of the proposed Settlement and your legal rights.**

**Who Is Included?** The proposed Settlement Class, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. You were sent this Notice because you may be a Settlement Class Member. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.

**What Does the Settlement Provide?** If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible settlement class members who file claims. Plaintiffs’ counsel fees and expenses (up to a maximum of CA\$4,397,500.00) will be separately paid by New GM and GM Canada, so will not be deducted from the settlement fund.

**How Can I Get a Payment?** For details about the Settlement, including the money available to Settlement Class Members and your eligibility to receive a payment, review the Long Form Notice and the Settlement Agreement available at [settlement website]. If the Settlement is approved, you will be required to submit a claim online or by mail before the deadline which will be posted on the website.

**Your Other Options.** You have the option to opt-out of, or object to, the Settlement. The Settlement will not include the release of any individual claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. However, if you want to keep your individual right to sue New GM and GM Canada and certain other released parties and assert economic loss claims, you must exclude yourself from the Settlement Class. If you exclude yourself, you cannot receive the benefits provided by the Settlement. Get advice from

your lawyer about deadlines for individual lawsuits. Your request to opt out must be postmarked by [date], 2024. **IF YOU DO NOT EXCLUDE YOURSELF AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.** If you stay in the class, you may object to the Settlement – that is, if you do not opt out and stay in the Settlement Class, you may tell the Ontario Superior Court of Justice or the Superior Court of Québec why you don't like the Settlement. Your written objection must be received by the Settlement Administrator by [date], 2024. Information about how to exclude yourself or object to the Settlement is available on the website.

**Approval Hearings.** The Settlement must be approved by the Ontario Superior Court of Justice and the Superior Court of Québec to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs' counsel fees and expenses will take place before the Ontario Superior Court of Justice on [month/date], 2024 at [time] a.m. eastern time; and the Superior Court of Québec on [month/date], 2024 at [time] a.m. eastern time. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.

You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so. For more information, call or visit the website below.

[insert phone number]

[settlement website]

Class Counsel:

Rochon Genova LLP  Attention: Ron Podolny rpodolny@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867	Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee mbm@complexlaw Tel: (416) 596-1414
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[At the top of notice, if a letter, or on the back of the postcard, if a postcard, will be the Settlement Class Member's name and address, and court logos.]

**IMPORTANT COURT-APPROVED LEGAL NOTICE FROM THE ONTARIO SUPERIOR COURT OF JUSTICE AND THE SUPERIOR COURT OF QUÉBEC.**

Plaintiff John Doe  
123 45<sup>th</sup> Street  
Anytown, Canada

**GM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering  
Economic Settlement Information**

**Schedule “C” – Long-Form Certification Notice****Ontario Superior Court of Justice / Superior Court of Québec****NOTICE OF PROPOSED SETTLEMENT****If You Are a Current or Former Owner or Lessee of a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.**

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below), your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you of the proposed settlement (the “**Settlement**”) of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.
- As part of the Settlement, all *class* claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle have been discontinued or removed. The Settlement will not include the release of any *individual* claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. Participating in this Settlement will not restrict you from bringing an *individual* claim for damages related to personal injury (and related family/dependent claims), wrongful death or actual physical property damage.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.

- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and for [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec. These hearings are public. You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• <b><u>The claims process has not yet begun.</u></b></li> <li>• If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member must complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</li> <li>• Settlement Class Members may complete a claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at [settlement website].</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<b>Exclude Yourself or “Opt Out”</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at their own expense. Get advice from your lawyer about deadlines for individual lawsuits.</li> <li>• Your request to opt out must be received by the Settlement Administrator by [date], 2024.</li> <li>• More information about how to opt out of the Settlement can be found in paragraph 8 below and at [settlement website].</li> </ul>
<b>Object</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by the Settlement Administrator by [date], 2024.</li> <li>• Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be</li> </ul>

	<p>bound by any Court-approved Settlement even though they objected to it.</p> <ul style="list-style-type: none"> <li>• More information about how to object can be found in paragraph 10 below and at <a href="#">[settlement website]</a>.</li> </ul>
<b>Go to the Hearing</b>	<ul style="list-style-type: none"> <li>• To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on <a href="#">[date]</a>, 2024 at <a href="#">[time]</a> a.m. (Eastern Time) before the Ontario Superior Court of Justice and on <a href="#">[date]</a>, 2024 at <a href="#">[time]</a> a.m. (Eastern Time) before the Superior Court of Québec.</li> <li>• The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings.</li> </ul>
<b>Do Nothing</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li> <li>• Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.</li> </ul>

**WHAT THIS NOTICE CONTAINS**

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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice provides information about the Settlement of all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class



Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (VINs) provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero	14299	2014-246	
	1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	



<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit	14117		
	2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6	14118		
	2008-2009 Saturn Aura 2004-2007 Saturn Ion			

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [\[settlement website\]](#) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [\[settlement website\]](#) or call [\[phone number established by Settlement Administrator\]](#), to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

## C. THE TERMS OF THE SETTLEMENT AGREEMENT

### 4. What am I giving up under the Settlement Agreement?

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “**Released Parties**”). Further, all *class* claims for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle have been discontinued or removed. However, Settlement Class Members will not waive or release any *individual* claims they may have against the Released Parties for personal injury (and related family/dependent claims), wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your lawyer about deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [[settlement website](#)]. The Settlement Agreement describes the Released Claims in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

### 5. What am I receiving under the Settlement Agreement?

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

#### i. The Settlement Fund Amount

In exchange for Settlement Class Members’ release of the Released Claims, there will be a CA\$12 million settlement fund established (the “**Settlement Fund Amount**”). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

#### ii. How will payments for eligible claims be allocated?

A “Net Settlement Amount” shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half

times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### iii. How do I get a payment from the Net Settlement Amount?

**The claims process has not yet begun.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you must file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [settlement website] or by mail to [Settlement Administrator's address]. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

### 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“Co-Lead Counsel”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP</p> <p>Attention: Ron Podolny rpodolny@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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## 7. How will the plaintiffs' lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs' counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs' counsel fees, expenses, costs, disbursements and associated taxes (the "**Maximum Plaintiffs' Counsel Fee Amount**"). This application for plaintiffs' counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs' Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs' Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs' counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending a written election to opt out of the Settlement by mail, courier, or e-mail so that it is received by the Settlement Administrator on or before [date], 2024.

The written election to opt out must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s); and
- e. A clear statement that you want to be excluded from or opt out of the Settlement Class and the Settlement.

The written election to opt out may be sent to the Settlement Administrator through email to [settlement email address], or by mail or courier to [address of Settlement Claims Administrator].

### 9. What happens if I exclude myself from the Settlement Class?

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your lawyer about deadlines for individual lawsuits.

## F. OBJECTING TO THE SETTLEMENT

### 10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?

If you are a Settlement Class Member, and you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada. The Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada.

To object, you must deliver a written objection to the Settlement Administrator by email to [settlement administrator email] or by courier or mail to [settlement administrator address] so that it is received on or before [date], 2024. Objections received after this date will not be considered.

Your signed objection must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A brief statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

## G. THE APPROVAL HEARINGS IN COURT

### 11. When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on [date], 2024 at [time] a.m. (Eastern Time); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Quebec H2Y 1B6 on [date], 2024 at [time] a.m. (Eastern Time).

The hearings may move to a different date, time, or location, or may be held virtually through videoconferencing. Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [settlement website] or call [settlement phone number established by Settlement Administrator] for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final. Please check the Settlement Website [settlement website link]. You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

### 12. Do I have to go to the hearings?

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to attend the hearings at your own expense, or through videoconferencing if the Settlement Approval Hearings are heard virtually.

If you send a written objection to the Settlement Administrator, you do not have to come to court to talk about it. So long as you mailed your written objection on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**13. May I speak at the hearings?**

Yes. If you submitted a proper written objection to the Settlement Administrator, you or your lawyer may, at your own expense, come to the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court.

**H. IF YOU DO NOTHING****14. What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your lawyer about deadlines for individual lawsuits.

**I. GETTING MORE INFORMATION****15. How do I get more information about the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [website]. If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>	
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to [website], where you will find answers to common questions and other detailed information to help you.

<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call [phone number established by Settlement Administrator].	
<b>CONTACT CLASS COUNSEL</b>	<p>Rochon Genova LLP</p> <p>Attention: Ron Podolny  rpodolny@rochongenova.com  Tel: 1-866-881-2292  or local (416) 363-1867</p> <p>121 Richmond Street West  Suite #900  Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers  P.C.</p> <p>Attention: Megan B. McPhee  mbm@complexlaw  Tel: (416) 596-1414</p> <p>1203-1200 Bay Street  Toronto, ON M5R 2A5</p>



**Schedule “D” - Approval Notice**

**LEGAL NOTICE OF COURT APPROVAL OF GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY AND ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

A nationwide class settlement of economic loss claims by persons who owned or leased a GM vehicle subject to one of the following recalls on or before the recall announcement date has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec:

	<b>Make, Model and Model Year*</b>	<b>GM Recall Number</b>	<b>Transport Canada Recall Number</b>	<b>Recall Announcement Date</b>
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero	14299	2014-246	
	1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement. Visit [settlement website] to see if your vehicle qualifies.

## BENEFITS FOR SETTLEMENT CLASS MEMBERS

A CA\$12-million settlement fund has been established, which will be distributed to Settlement Class Members as follows:

- (i) members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses; and
- (ii) members of the Key Rotation Subclass shall receive one-and-a-half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses.

An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments.

Following the submission of claims and deduction of administrative expenses, taxes and any honoraria payments from the settlement fund, the individual payments to be made to members of each subclass shall be published at [settlement website].

The Courts [have approved] [OR will in the future approve] legal fees to plaintiffs' counsel (up to a maximum of \$4,397,500.00). Those amounts will be paid separately and will not reduce the settlement benefits.

### HOW DO I MAKE A CLAIM?

- To receive money from this Settlement, you must submit a completed Claim Form by [date].
- You may submit a Claim Form online through [settlement website].
- Alternatively, you may complete a paper Claim Form available at [settlement website] and submit your Claim Form by mail or courier to the address indicated on the Claim Form.

**TO OBTAIN MORE INFORMATION, VISIT [settlement website] OR CALL [phone number established by Settlement Administrator].**

**YOU MAY ALSO CONTACT LAWYERS FOR THE SETTLEMENT CLASS AT:**

<p>Rochon Genova LLP</p> <p>Attention: Ron Podolny rpodolny@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw Tel: (416) 596-1414</p>
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## Schedule “E” – Claim Form

**GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT**

**CLAIM FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

**INSTRUCTIONS FOR SUBMITTING A CLAIM FORM**

Please review the following instructions before proceeding.

**ELIGIBILITY:**

You are a Settlement Class Member and eligible to submit this Claim Form **only if** you are not an Excluded Person (see Section I below), and you:

1. Currently own or lease a **Subject Vehicle** and (a) you owned or leased it *on or before* the **Recall Announcement Date** and (b) your vehicle has either already had the applicable Recall repair(s) performed, or you will now have the Recall repair done (for free) by an authorized GM dealer. The Recall repair(s) must occur on or before the **Final Recall Repair Date**, which is [**● date**]; **or**
2. Formerly owned or leased a **Subject Vehicle** *on or before* the **Recall Announcement Date**. Certain former owners or lessees of a Subject Vehicle may need to provide documentation (or, if you don't have documentation, make a signed solemn declaration as described below) showing that you are no longer in the possession, custody or control of the Subject Vehicle.

\*See below for how to find out if you own(ed) or lease(d) a **Subject Vehicle** and, if so, the **Recall Announcement Date**, applicable **Recall(s)** and status of the Recall repair(s).

**WHAT TO DO BEFORE COMPLETING THIS CLAIM FORM:**

1. Locate the vehicle identification number (“VIN”) for the GM vehicle that you own(ed) or lease(d).

2. Enter your VIN on the Settlement Website [**● Settlement Website address**] to find out if the GM vehicle that you own(ed) or lease(d) is a **Subject Vehicle**, and if so, the applicable **Recall(s)**, **Recall Announcement Date(s)**, and whether or not the Recall repair(s) have already been performed. (GM data for the VIN shall be dispositive as to whether the vehicle is a Subject Vehicle.)
3. Ensure that you are **not** an Excluded Person (see Section I below).
4. Ensure that you owned or leased your Subject Vehicle on or before the **Recall Announcement Date**.

**COMPLETING & FILING A CLAIM FORM:**

1. Complete Sections I to IV below.
2. **Your completed Claim Form must be submitted electronically and/or postmarked on or before the Claims Deadline, which is [**● date**].**
3. You can submit your Claim Form as indicated below:
  - a. Electronically at: [**● website**]. If you file online, certain information may be filled in for your vehicle, which you will need to confirm. You are encouraged to submit your Claim Form online for easy verification and processing.
  - b. By email to: [**● Settlement Administrator's email address**], or
  - c. By mail to:  
  
Settlement Administrator  
[**● Address**]

**ONE CLAIM FORM PER SUBJECT VEHICLE:**

You must submit a separate Claim Form for each Subject Vehicle. If you own(ed) or lease(d) more than one Subject Vehicle on or before the applicable Recall Announcement Date(s) and you are not an Excluded Person, submit a separate Claim Form for each Subject Vehicle to be eligible for settlement payments for each Subject Vehicle.

**RECALL REPAIRS:**

If the Recall repair(s) have not been performed on your Subject Vehicle, and you are the current owner or lessee, you will need to bring your Subject Vehicle to an authorized GM dealer to obtain the Recall repair(s) free of charge on or before the Final Recall Repair Date in order to be eligible for a settlement payment.

**SUPPORTING DOCUMENTATION MAY BE REQUESTED:**

Please be advised that the Settlement Administrator is authorized to require supporting/supplemental documentation from any person submitting a Claim Form. In order to ensure against fraud or to confirm your eligibility, the Settlement Administrator may request documentation or additional information from you, including requests for:

- a. proof you owned or leased the Subject Vehicle on or before the Recall Announcement date, such as the vehicle ownership, purchase or lease papers, or a solemn declaration with further details supporting your ownership or lease of the Subject Vehicle on or before the Recall Announcement Date;
- b. information confirming you are not an Excluded Person; and/or
- c. if the Recall repair(s) are not yet performed on your Subject Vehicle, confirmation you obtained the repair(s) from an authorized GM dealer.

If you receive an email or mailed notice from the Settlement Administrator seeking additional information, you will need to comply in order to be eligible for a settlement payment. You will be assigned a claim number by the Settlement Administrator once you submit your Claim Form. Include your claim number when submitting any requested supporting documentation.

**SETTLEMENT PAYMENT INFORMATION:**

The settlement payment amount for each eligible Claim will depend upon the number of eligible Claims submitted, which Recalls apply to your Subject Vehicle and to the Subject Vehicles for all other eligible Claims, as well as the Administrative Expenses (such as for settlement administration) as detailed in Sections 4 and 5 of the Settlement Agreement.

**SECTION I: Excluded Persons**

Certain individuals and entities are prohibited from being Settlement Class Members and receiving payment under this Settlement. These Excluded Persons are:

- authorized GM dealers;
- daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
- governmental or quasi-governmental bodies;
- the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
- Actions Counsel\* as well as members of their staff and immediate family;

- all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
- all individuals and entities that have validly opted-out of the Settlement.

\*The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

\*\*The determination of the Settlement Administrator as to whether you are an Excluded Person is dispositive; there is no appeal to a court. The Settlement Administrator will make this determination based upon data provided by the Parties, as well as any additional information/documentation that the Settlement Administrator may request from you.

**I CONFIRM THIS CLAIM IS NOT ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS**

**SECTION II: Information on Claimant and Subject Vehicle**

Owner/Lessee Last Name:

First Name:

Middle Initial:




**OR** Full Business Name of Owner/Lessee:

Vehicle Identification Number (VIN):

Make, Model, and Model Year of Vehicle:



Telephone Number:

Email Address:



Your Current Address (Number/Street/P.O. Box No.):

City:	Province:	Postal Code:
<p>If you lived/operated at a different address when you owned or leased the Subject Vehicle than the current address provided above, please provide your Address at the time you owned or leased the Subject Vehicle for which you are submitting a Claim (Number/Street/P.O. Box No.):</p>		
City:	Province:	Postal Code:

<p><b>SECTION III: Check the Box below that applies to you and add the applicable date(s)</b></p> <p><b>Check ONE Box below that applies to you and this claim and complete the requested fields.</b></p>	
<input type="checkbox"/>	<p><b>I am the CURRENT owner or lessee of a Subject Vehicle and I purchased or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ___/___/___ (MM/DD/YYYY)</p>
<input type="checkbox"/>	<p><b>I am a FORMER owner or lessee of a Subject Vehicle, and I owned or leased the Subject Vehicle on or before the Recall Announcement Date.</b></p> <p><b>Please select one: Did you Purchase <input type="checkbox"/> or Lease <input type="checkbox"/> the Subject Vehicle?</b></p> <p>I purchased/leased the Subject Vehicle on: ___/___/___ (MM/DD/YYYY)</p> <p>I sold/ended the lease of the Subject Vehicle on: ___/___/___ (MM/DD/YYYY)</p>

**SECTION IV: Attestation**

By signing below I declare and affirm that the information in this court-ordered Claim Form is true and correct, that I can make this Claim, and have legal authority to submit this Claim Form. I understand that my Claim may be subject to audit, verification and review by the Settlement Administrator, the Ontario Superior Court of Justice and/or the Superior Court of Québec, and that I may be requested to provide additional information to support my claim. **I understand that submitting incorrect information may subject me to criminal and/or civil prosecution for fraud.**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

If you are signing on behalf of a Claimant, indicate your authority to sign, e.g., estate representative, power of attorney, legal guardian. If you are signing on behalf of an entity, indicate your job title.

\_\_\_\_\_

**Claim Forms must be electronically submitted or postmarked on or before the Claims Deadline, which is [● date].**

**Questions? Visit [● settlement website] or call, toll-free, [● phone number]**



## Schedule “F” - Initial Press Release

### **If You Owned or Leased a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.**

A proposed class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been submitted for approval to the Ontario Superior Court of Justice and the Superior Court of Québec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering. The plaintiffs claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. The plaintiffs, New GM and GM Canada have agreed to a settlement to avoid the risk and cost of further litigation.

The proposed settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the settlement class. Go to [\[settlement website\]](#), or call [\[phone number\]](#), to see if your GM vehicle is covered by the settlement.

If approved, the settlement fund will be CA\$12 million. Payment amounts to eligible settlement class members will vary depending on which recall applied to their vehicle, the amount of administrative expenses, taxes and any honoraria payments, and the number of settlement class members who file claims.

For details about the settlement, including the money that may be available to settlement class members, and your eligibility to file a claim and receive a payment, review the Long Form Notice and the Settlement Agreement available at [\[settlement website\]](#). If the settlement is approved, you will be required to submit a claim online or by mail on or before the deadline which will be posted on the website.

Settlement class members have other options too. The settlement will not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. However, if you want to keep your right to sue New GM, GM Canada and certain other released parties about the economic loss claims, you must exclude yourself from the class. If you exclude yourself, you cannot receive benefits provided by the settlement. Your exclusion request must be sent to the Settlement Administrator and postmarked on or before [\[Opt Out Deadline\]](#). **IF YOU DO NOT EXCLUDE YOURSELF AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.** Get advice from your lawyer about deadlines for individual lawsuits.

If you stay in the settlement class, you may object to the settlement – that is, tell the Ontario Superior Court of Justice or the Superior Court of Québec why you don’t like the settlement. Your objection must be postmarked or emailed on or before [\[Objection Deadline\]](#). Information about how to exclude yourself or object to the settlement is available at [\[settlement website\]](#).

The Ontario Superior Court of Justice will hold a hearing on [date], 2024 at [time] a.m. (Eastern Time), and the Superior Court of Québec will hold a hearing [date], 2024 at [time] a.m. (Eastern Time), to consider whether to approve the settlement. You may appear at the hearings either yourself or through a lawyer hired by you, but you do not have to do so.

The legal fees to be paid to plaintiffs' counsel may also be approved at the hearings to approve the settlement. New GM and GM Canada have agreed to pay the legal fees and expenses of plaintiffs' counsel up to a maximum amount of CA\$4,397,500.00 to be paid separately, that is, not to be deducted from the settlement fund, and which must be approved by the Courts.

For more information, call [phone number] or visit [settlement website].

You may also contact lawyers for the Settlement Class at:

<p>Rochon Genova LLP</p> <p>Attention: Ron Podolny rpodolny@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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### Schedule “G” - Reminder Press Release

**Eligible Owners or Lessees of GM Vehicles that were Subject to Certain 2014 Recalls, You Must File Your Settlement Claim before [date], 202[year].** A class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been approved by the Ontario Superior Court of Justice and the Superior Court of Québec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering.

The plaintiffs claimed that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) denied these allegations. The plaintiffs, New GM and GM Canada agreed to a settlement to avoid the risk and cost of further litigation. The settlement does not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage.

The settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the class.

Go to [settlement website] to see if your GM vehicle is covered by the settlement and if you are eligible to file a claim. All claims must be received electronically or by mail on or before [date], 202[year].

The settlement fund is CA\$12 million. Payment amounts to eligible settlement class members depend on which recall applied to their vehicle, the amount of administration expenses, taxes, and any honoraria payments, and the number of eligible settlement class members who file claims.

Learn more by calling [phone number] or visiting [settlement website].

You may also contact lawyers for the Settlement Class at:

<p>Rochon Genova LLP</p> <p>Attention: Ron Podolny rpodolny@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street, West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**ROCHON GENOVA LLP**

900-121 Richmond Street West  
Toronto, ON M5H 2K1

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Ronald Podolny (LSUC#56098C)  
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Jacqueline A. Horvat (LSUC #46491T)  
S. Alex Constantin (LSUC# 63097W)  
Tel: 519.258.9527 / Fax: 519.561.6203

C A N A D A

S U P E R I O R C O U R T  
(Class Action)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

---

MICHAEL GAGNON

N<sup>o</sup> : 500-06-000687-141

*Applicant*

-vs-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

---

C A N A D A

S U P E R I O R C O U R T  
(Class Action)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

---

MICHAEL GAGNON

N<sup>o</sup> : 500-06-000729-158

*Applicant*

-vs-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

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APPLICATION FOR THE APPROVAL OF NOTICES TO CLASS MEMBERS, TO  
AMEND THE APPLICATIONS TO INSTITUTE A CLASS ACTION AND AUTHORIZE  
A CLASS ACTION FOR SETTLEMENT PURPOSES  
(Arts. 206, 575, 581 and 590 C.C.P.)

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TO THE HONOURABLE JUSTICE PIERRE NOLLET OF THE SUPERIOR COURT OF  
QUÉBEC, APPOINTED TO CASE MANAGE THE PROPOSED CLASS ACTION, THE

**APPLICANT STATES THE FOLLOWING:**

1. On March 19, 2014, the Applicant brought his Application for Authorization against the Defendants General Motors of Canada and General Motors Company (the “**Defendants**”) regarding the **ignition switch defect** (the “*Québec IS Action*”) (File court number : **500-06-000687-141**) on behalf of the following proposed class:

All persons in Quebec (including but not limited to individuals, corporations, and estates) who, on the dates of February 10, 2014, February 26, 2014 and March 31, 2014 owned one of the following vehicles:

- 2005-2010 Chevrolet Cobalt
- 2006-2011 Chevrolet HHR
- 2000-2014 Chevrolet Impala
- 2005-2006 Pontiac Pursuit
- 2007-2010 Pontiac G5
- 2006-2010 Pontiac Solstice
- 2003-2007 Saturn ION
- 2007-2010 Saturn Sky

2. On January 23, 2015, the Applicant brought another Application for Authorization against the Defendants, General Motors of Canada and General Motors Company (the “**Defendants**”) regarding the **electric power steering defect** (the “*Québec EPS Action*”) (File Court number : **500-06-000729-158**) on behalf of the following proposed class:

All persons in Quebec (including but not limited to individuals, corporations, and estates) who, on March 31, 2014, owned one of the following Subject Vehicles:

- 2004-2006, 2008, 2009 Chevrolet Malibu
- 2004-2006 Chevrolet Malibu Maxx
- 2009-2010 Chevrolet HHR
- 2010 Chevrolet Cobalt
- 2008-2009 Saturn Aura
- 2004-2007 Saturn ION

- 2005, 2006, 2008, 2009 Pontiac G6

The *Québec EPS Action* and the *Québec IS Action* are altogether called the “*Québec Actions*”;

3. By way of the present Application, Applicant Michael Gagnon seeks in the *Quebec Actions* to:
  - a) Amend his applications for authorization as to be limited to pecuniary losses by removing any allegations of moral damages for settlement purposes only, modify the proposed Classes to properly define the vehicles effectively captured by the Settlement Agreement, as well as correcting the Defendant General Motors Company to the correct corporate entity;
  - b) Authorize his applications for authorization for settlement purposes only;
  - c) Approve the content and mode of dissemination of the long-form and short-form notices of the proposed settlement to class members, in French and English in the accordance with the Notice Program; and,
  - d) Set a date for the hearing of an Application by the Applicant for approval of the Settlement Agreement and approval of Class Counsel Fees and any necessary ancillary orders;
4. Capitalized terms not otherwise defined herein have the definitions ascribed in the Settlement Agreement, referred to below and attached hereto as EXHIBIT R-3;

#### **ONTARIO ACTION**

5. The present proposed *Quebec Actions* are in addition to another substantially similar proposed class action regarding the EPS defect and the Ignition switch defect that was filed in Ontario, *Amanda Oberski, Edward Oberski and Stacey Green v. GENERAL MOTORS LLC And GENERAL MOTORS OF CANADA LIMITED* (formerly titled *Baker v. General Motors*) Court File No.: CV-14-502023-00CP which proposes a national class, excluding Québec (“*Ontario Action*”), as it appear from the Ontario Notice Motion returnable January 8, 2024 communicated altogether herein as EXHIBIT R-1;

6. The *Ontario Action* is brought on behalf of:

a) the following class of persons (the “National Settlement Class”):

All Persons resident in Canada other than Excluded Persons and other than Persons whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Québec who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada.

b) defining the Delta Ignition Switch Subclass as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Delta Ignition Switch Recall.

c) defining the Key Rotation Subclass as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Key Rotation Recall.

d) defining the Camaro Knee-Key Subclass as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Camaro Knee-Key Recall.

e) defining the Electric Power Steering Subclass as:

Settlement Class Members who own(ed), purchased, and/or lease(d) a Subject Vehicle covered by the Electric Power Steering Recall.

7. In fact, the *Ontario Action* seeks damages and other relief on behalf of class members who owned or leased certain GM vehicles equipped with the allegedly defective Electric Power Steering of the *Quebec EPS Action* and the vehicles equipped with the allegedly defective Ignition switches of the *Quebec IS Action*. The *Ontario Action* alleges, among other things, that these vehicles were manufactured, marketed, sold, and leased with the defects;



8. On January 16, 2024, Justice Perell of the Ontario Superior Court of Justice certified the *Ontario Action* and the National Settlement Class for the purposes of settlement; discontinued class claims for wrongful death, personal injury claims under the *Family Law Act* (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle; appointed JND Legal Administration as Settlement Administrator to perform the duties set out in the Settlement Agreement; and approved the Short-Form Certification Notice, Long-Form Certification Notice and the Notice Program. Justice Perell's Reasons For Decision and Order are attached hereto as Exhibit R-1;

### **PROPOSED SETTLEMENT AGREEMENT**

9. After arms length negotiations, the Plaintiffs in the *Ontario Action* and *Quebec Actions* and the Defendants have entered into a Settlement to resolve on a national basis the *Ontario Action*, and the parallel *Quebec Actions*, pursuant to the terms and conditions contained in the *Settlement Agreement* dated November 1, 2023, attached hereto in its original version in English and in a translated version in French as EXHIBIT R-3;
10. This Settlement Agreement settles, subject to approval by this Honorable Court (insofar as the *Quebec Actions* are concerned) and the Ontario Superior Court of Justice (insofar as the *Ontario Action* is concerned), any and all claims asserted on behalf of the Québec Settlement Class and the National Settlement Class;
11. More specifically, the proposed Settlement Agreement is an economic settlement aiming to settle issues related to the GM electric power steering, ignition switch, as well as key rotation, and Camaro knee-key recalls;
12. This Settlement Agreement settles, subject to approval by this Honourable Court, any and all class claims asserted in the *Ontario Action* and *Quebec Actions*;
13. The Court is not asked, at this stage, to consider the merits or to otherwise approve the Settlement Agreement itself;
14. By way of a subsequent application, the parties will ask this Court to approve the Settlement Agreement;

**THE AMENDMENT OF THE APPLICATIONS TO AUTHORIZE FOR SETTLEMENT PURPOSES:**

15. In furtherance of the proposed settlement, the Applicant is seeking the amendment of his Applications for authorization in the *Quebec Actions* to remove any allegation regarding any moral damages associated with owning a vehicle subject to the recalls, as it appears in the *Re-Amended motion to authorize the bringing of a class action and to ascribe the status of representative* in the *Québec IS Action* (500-06-000687-141) and in the *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* (the *Québec EPS Action* (500-06-000729-158), attached altogether herein as EXHIBIT R-2.<sup>1</sup> As stated in Section 11.2 of the Settlement Agreement (EXHIBIT R-3):

“[i]t is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only”.

16. The amendments also seek to establish the proper scope of the Class in each of the *Quebec Actions*, and in particular define the vehicles targeted by the proposed Settlement Agreement, the whole as detailed in Schedule A of the Settlement Agreement, EXHIBIT R-3;
17. Further, the Applicant is seeking leave to correct the name of the Defendant, General Motors of Canada Company, and to substitute the Defendant’s name *General Motors Company* as it appears in the *Application to authorize* with the correct corporate entity, that is ***General Motors LLC***;

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<sup>1</sup> For the purpose of the proposed Settlement, all alleged class claims for wrongful death, personal injury, claims under the Family Law Act (and analogous legislation in other Provinces), and actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle have been discontinued in the Ontario Action.

18. In the circumstances, these amendments are useful, in accordance with the ends of justice, in the interests of all the class members of the *Quebec Actions* and necessary for the purposes of facilitating the Settlement. These amendments should be granted accordingly;

**AUTHORIZATION OF A CLASS ACTION FOR SETTLEMENT PURPOSES**

19. The criteria for authorization are met for the purposes of giving effect to the terms of the proposed Settlement;

20. The Applications for authorization in the *Quebec Actions* disclose causes of action against the Defendants for the purposes of the Settlement;

21. There are identifiable classes of two or more persons that would be represented by the representative Plaintiff for the purposes of the Settlement. For the purposes of settlement of the Quebec Actions, the **Quebec Settlement Class** is defined as:

All Persons resident in Canada other than Excluded Persons who, at any time on or before the Recall Announcement Date of the Recall(s) applicable to their Subject Vehicle(s), owned, purchased, and/or leased a Subject Vehicle in any of the provinces/territories in Canada and whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.

22. The Quebec Settlement Class is comprised of the same four Subclasses certified in the *Ontario Action*: the Delta Ignition Switch Subclass, the Key Rotation Subclass, the Camaro Knee-Key Subclass (included in the *Québec IS Action*), and the Electric Power Steering Subclass (included in the *Québec EPS Action*). For Subject Vehicles subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall, the date for determining Settlement Class membership shall be the later of the Recall Announcement Date for the Delta Ignition Switch Recall or the Electric Power Steering Recall;

23. The claims of the Quebec Settlement Class members raise common issues of fact and law to the extent necessary for the purposes of the Settlement;

24. The proposed representative Plaintiff for the purpose of the Quebec Settlement Class:

- a) would fairly represent the interests of the members of the Quebec Settlement Class;
  - b) has, through the Settlement Agreement, produced a plan for the proceeding that sets out a workable method of administering and resolving the claims of the Quebec Settlement Class members and of notifying Quebec Settlement Class members of authorization, the terms of the Settlement Agreement and of the Settlement Approval Hearings; and
  - c) does not have an interest in conflict with the interests of other members of the Quebec Settlement Class;
25. The Applicant submits that he is in a position to properly represent the members of the Québec Settlement Class for the reasons stated at paragraph 47 of the *Re-Amended Application for Authorization* of the Quebec IS Action and paragraph 35 of the *Amended Application for Authorization* of the Quebec EPS Action;
26. The Applicant submits that the other criteria contained in article 575 C.C.P. are also met for the exclusive purpose of giving effect to the Settlement Agreement;
27. The Applicant proposes the following common issue for settlement purposes only:
- Are the defendants liable for a defect in the Subject Vehicles to the Quebec Settlement Class members ?
28. The Defendants consent to an order authorizing the *Quebec Actions* as class proceedings for the sole purpose of effecting the proposed Settlement;
29. As noted above, a parallel Order certifying of the *Ontario Action* solely for the purposes of the Settlement, appointing of the Settlement Administrator, and approving of the Notice Program and the Certification Notice was granted by the Ontario Superior Court of Justice on January 16, 2024;

### **APPROVING THE FORM AND DISTRIBUTION OF NOTICE**

30. The Applicant seeks leave to approve the content and the dissemination of the Short- and Long-Form Certification Notices (collectively Certification Notice) in French and English, attached hereto as EXHIBIT R-4 and EXHIBIT R-5 (**SCHEDULES B and C of the Settlement Agreement EXHIBIT R-3**), pursuant to the **Notice Program**, attached hereto in its original version in English and in a translated version in French as EXHIBIT R-6;
31. The **Certification Notice**, will advise of the certification/authorization of the *Quebec Actions* and *Ontario Action* for settlement purposes only and will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings and the procedures for objecting to and opting out of the Settlement;

### **THE NOTICE PROGRAM**

32. As set out in the proposed Notice Program, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:
- a) Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available), proposed templates of which are attached as Schedules B, C and D to the Settlement Agreement;
  - b) A summary of the benefits available to Eligible Claimants under the Settlement;
  - c) The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
  - d) A searchable VIN interface (i.e., the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
  - e) Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
  - f) Information on the procedure for opting out of, or objecting to, the Settlement; and

g) Contact information for the Settlement Administrator including the Settlement Phone Number.

33. If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims.

34. As set out in the proposed Notice Program, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

35. As set out in the proposed Notice Program, Notices will be disseminated as follows:

a) If the Courts grant the Authorization/Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail to:

- all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
- to all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid e-mail address.

The e-mails will contain a hyperlink to the Settlement Website where a copy of the Long-Form Notice will be available.

b) The Short-Form Certification Notice, in English and French, will be published as follows:

- i) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Short-Form Certification Notice, the form and content of which shall be agreed to by the Parties, in the newspapers below (collectively, the "Newspapers") in either English or French, as

applicable, to supplement the direct notice being provided by e-mail. This Short-Form Certification Notice will be published once in the print and digital replica editions of each of the Newspapers, with the exception of *La Presse*, which is only available in digital format:

- i. *The Globe and Mail* (national edition)
  - ii. *The National Post* (national edition)
  - iii. *The Gazette* (Montréal)
  - iv. *La Presse* (Montréal)
  - v. *Le Journal du Québec* (Québec City)
  - vi. *Toronto Star* (national edition)
- ii) The Short-Form Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- iii) If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short-Form Certification Notice and Long-Form Certification Notice on their own law firm websites.

36. These methods of notification are consistent with those employed in prior settlement approval proceedings and are sufficient to accomplish the goals of the notifications.

37. Therefore, the Applicant respectfully requests that this Court approve the dissemination of the Certification Notice pursuant to the Notice Program (**EXHIBIT R-6**);

### **CONCLUSIONS**

38. The Applicant submits that the form and manner of the proposed notices is consistent with the applicable requirements of the *Code of Civil Procedure* in that they: a) state that the Settlement Agreement will be submitted to this Court for approval on specified date and place; b) specify the nature of the transaction, the method of execution chosen, and the procedure to be followed by the Quebec Settlement Class members to prove their claims; and c) informs Quebec

Settlement Class members that they may assert their contentions before this Court regarding the proposed Settlement Agreement;

39. Therefore, the Applicant respectfully requests that this Court approve the content and the dissemination of the **Certification Notice** pursuant to the Notice Program;
40. The Applicant also requests that the amended applications for authorization be granted for settlement purposes only;
41. The Certification Notice and the Notice Program satisfy the requirements of the *Code of Civil Procedure*;
42. The Parties have agreed on JND Legal Administration to be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement, including tasks regarding objections and opting out;
43. Should the Settlement not be approved by this Honourable Court, the parties acknowledge and accept that the authorization of the *Quebec Actions* will be deemed annulled and that they will resume their pre-authorization positions in the litigation;
44. The present Application is well founded in law and in facts;

**FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:**

**GRANT** the present Application;

**PERMIT** the Applicant to amend the “Amended Application for authorization to institute a class action and to appoint a representative plaintiff”, as set forth in the “*Re-Amended Application for authorization to institute a class action and to appoint a representative plaintiff*”, in the file **500-06-000687-141**;

**PERMIT** the Applicant to amend the “Application for authorization to institute a class action and to appoint a representative plaintiff”, as set forth in the “*Amended Application for authorization to institute a class action and to appoint a representative plaintiff*”, in the file **500-06-000729-158**;



**AUTHORIZE** the bringing of a class action and to ascribe the status of representative filed by Applicant Michael Gagnon for settlement purposes only and **APPOINT** Michael Gagnon as the representative plaintiff in both proceedings **500-06-000687-141** and **500-06-000729-158**;

**APPROVE** the form and content of the Certification Notice (the Short-Form Certification Notice and Long-Form Certification Notice attached hereto as EXHIBIT R-4 and EXHIBIT R-5);

**APPROVE** the dissemination of the Certification Notice pursuant to the Notice Program, attached hereto as EXHIBIT R-6;

**ORDER** that the Approval Hearing in Quebec will proceed on a date and at a time to be set by the court,

**ORDER** that the date and time of the Settlement Approval Hearing in Quebec be stated in the Short-Form Certification Notice and Long-Form Certification Notice, subject to any adjournment by the Court without further notice to the Quebec Settlement Class members other than that which may be posted on the Settlement Website maintained by the Settlement Administrator.

**ORDER** that JND Legal Administration shall be appointed as Settlement Administrator to perform the duties set out in the Settlement Agreement.

**ORDER** that National Settlement Class members may opt out and exclude themselves from this proceeding by contacting JND Legal Administration, in writing, no later than the Opt-Out Deadline, being sixty (60) days following the entry of both Certification Orders by the Courts.

**ORDER** that Quebec Settlement Class members may exclude themselves from this proceeding only in accordance with the directions set out in section 10 of the Settlement Agreement, by the Opt-Out Deadline.

**ORDER** that all Quebec Settlement Class members who do not validly opt out of this proceeding by the Opt-Out Deadline shall be bound as of the Effective Date by all terms of the Settlement Agreement, if it is approved by this Court, and may not opt out of this action in the future.

**ORDER** that Quebec Settlement Class members who wish to file with the Court an objection to the Settlement shall deliver a written statement to JND Legal Administration at the address indicated in the Short-Form Certification Notice or Long-Form Certification Notice no later than the Objection Deadline, being sixty (60) days after a Certification Notice is first published or disseminated in accordance with the Certification Orders.

**ORDER** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, including authorization of the Quebec Settlement Class for settlement purposes and all written elections to opt-out delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.

**DECLARE** that in the case of any discrepancy between the French and English conclusions of this Judgment, the English version will prevail;

**THE WHOLE, WITHOUT COSTS.**

Montreal, January 30, 2024

*Merchant Law LLP*

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**Merchant Law Group LLP**

Attorneys for the Applicant

C A N A D A

PROVINCE OF QUEBEC  
DISTRICT OF MONTREALN<sup>o</sup> : 500-06-000687-141  
500-06-000729-158S U P E R I O R C O U R T  
(Class Action)

MICHAEL GAGNON

*Applicant*

-vs-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

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**LIST OF EXHIBITS**

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<b>EXHIBIT R-1</b>	Motion material of the Ontario class action and Justice Perell's Reasons For Decision and Order dated January 16, 2024, en liasse
<b>EXHIBIT R-2</b>	Amended applications to authorize, en liasse
<b>EXHIBIT R-3</b>	Settlement Agreement, dated as November 1, 2023, in its original version in English and a translated version in French
<b>EXHIBIT R-4</b>	Short-Form Notices in French and English
<b>EXHIBIT R-5</b>	Long-Form Notices in French and English
<b>EXHIBIT R-6</b>	Settlement-Notice Program in English and French

MONTREAL, January 30, 2024

*Merchant Law LLP*

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**MERCHANT LAW GROUP LLP**  
Attorneys for the Applicant

AFFIDAVIT

I, the undersigned, **Christine Nasraoui**, attorney, practicing my profession with the firm Merchant Law Group LLP, located at 3055 Blvd. St-Martin Ouest Bureau T500 Laval, Québec, H7T 0J3, solemnly declares:

1. I am one of the attorneys representing the Applicant in the present matter;
2. All of the facts alleged in the present *Application for the approval of notices to class members and to authorize a class action and to amend the Application to institute a class action all for settlement purposes* are true to the best of my knowledge.

AND I HAVE SIGNED:



Christine Nasraoui

*Laval MD*

SOLEMNLY DECLARED TO BEFORE ME  
AT MONTREAL, on January 30, 2024

\_\_\_\_\_  
COMMISSIONER OF OATHS FOR  
ALL THE DISTRICTS OF QUEBEC

Victor Mensah-Dzraku g.a.c.s.

**NOTICE OF PRESENTATION**

**TO: Mtre. Stéphane Pitre**  
**BORDER LADNER GERVAIS LLP**  
1000, rue De La Gauchetière Ouest, bureau / suite 900,  
Montréal, QC, Canada H3B 5H4  
Telephone : 514.954.3147 |  
Fax: 514-397-8515  
Email : [SPitre@blg.com](mailto:SPitre@blg.com)

**TAKE NOTICE** that the present *Application for the approval of notices to class members, to amend a class action and to authorize the Applications to institute a class action all for settlement purposes* will be presented for adjudication at a date, time and location to be determined by the Honourable Justice Pierre Nollet of the Superior Court of Québec, District of Montréal, at the Montreal Courthouse situated at 1 Notre-Dame street East, Montréal, Québec.

**DO GOVERN YOURSELVES ACCORDINGLY.**

**MONTRÉAL, January 30, 2024**

*Merchant Law LLP*

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**MERCHANT LAW GROUP LLP**  
Attorneys for the Applicant

N<sup>o</sup>.: 500-06-000687-141  
N<sup>o</sup>.: 500-06-000729-158

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**SUPERIOR COURT**  
**DISTRICT OF MONTREAL**

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**MICHAEL GAGNON**

*Applicant*

vs

**GENERAL MOTORS OF CANADA COMPANY**

-AND-

**GENERAL MOTORS LLC**

*Defendants*

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**APPLICATION FOR THE APPROVAL OF NOTICES TO CLASS  
MEMBERS, TO AMEND THE APPLICATIONS TO INSTITUTE A  
CLASS ACTION AND TO AUTHORIZE A CLASS ACTION ALL  
FOR SETTLEMENT PURPOSES  
(ARTS. 206, 575, 581 AND 590 C.C.P.)**

**ORIGINAL**

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**Me Christine Nasraoui**  
**MERCHANT LAW GROUP LLP**  
3055 Blvd. St-Martin Ouest Bureau T500  
Laval, Québec, H7T 0J3  
Telephone: (514) 248-7777  
Telecopier: (514) 842-6687  
**BC 3841**

**SUPERIOR COURT**  
(Class Actions Chamber)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-06-000729-158  
500-06-000687-141

DATE: March 4, 2024

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**BY THE HONOURABLE PIERRE NOLLET., J.S.C.**

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500-06-000729-158

**MICHAEL GAGNON**  
Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**  
**GENERAL MOTORS LLC**  
Defendants

No. 500-06-000687-141

**MICHAEL GAGNON**  
Applicant

v.

**GENERAL MOTORS OF CANADA COMPANY**  
**GENERAL MOTORS LLC**  
Defendants.

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JUDGMENT

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500-06-000687-141

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## **OVERVIEW**

[1] The Court has received an APPLICATION FOR THE APPROVAL OF NOTICES TO CLASS MEMBERS, TO AMEND THE APPLICATIONS TO INSTITUTE A CLASS ACTION AND AUTHORIZE A CLASS ACTION FOR SETTLEMENT PURPOSES. (“**the Application**”).

[2] This file is an example of how not to proceed to a settlement and certification of a national class in another province without involving at the same time Quebec Courts for such part of the settlement and certification that requires Quebec Court’s approval.

[3] To illustrate the point, the Court quotes two paragraphs of the response letter from Quebec Counsel on the Court’s comments:

### ***g) Format of the Short Form Certification Notice***

To the extent that the Short-Form Certification Notice, Schedule B to the Settlement Agreement contains all the necessary and mandatory information, and given that it was approved by Justice Perell as submitted on the basis of the evidence adduced in support of the Certification motion (see notably Keough Affidavit, Exhibit R-1, par. 15, p. 126), the Parties would respectfully suggest to maintain the format of the Short-Form Notice in its current form, subject to the additional language we propose to add requiring Quebec residents to send their written opt-out requests and objections to the Court. We note that a substantial modification of the Notice may require a new agreement between parties, a validation from the Settlement Administrator and possibility additional proceedings in front of the Ontario Court of Justice to approve the modified version, which entails substantial costs and delays.

[Final paragraph]

We also stress that Justice Perell determined that the Notices were appropriate and that, in light of the agreement between the Parties, the principle of comity and cooperation between Canadian Courts should work in favour of facilitating the implementation of the Settlement in its current form.

[The Court underlines]

[4] Had the Quebec Superior Court been involved at the right time, all of this could have been avoided. To put pressure on the Quebec Superior Court to approve Notices and eventually a settlement, without the Court fully exercising the role of protecting the Class Members extended to it by the legislator is not acceptable.



500-06-000729-158  
500-06-000687-141

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[5] Said otherwise, it looks as if the Quebec Superior Court is asked not to cooperate but to surrender its jurisdiction to the Ontario Superior Court<sup>1</sup>. More explanations will follow.

### **1.1 The background in Ontario and the US.**

[6] On December 20, 2023, in the Ontario file, a Motion for consent certification and notice approval was filed and made returnable January 8, 2024. At the time, no courtesy copy was provided to the undersigned who is the case management judge in Quebec nor were my comments sought.

[7] In support of the Ontario Motion, a sworn declaration (Affidavit) from Ms. Jennifer Keough was entered as evidence. Ms. Keough is the Chief Executive Officer of JND Legal Administration, the Settlement Administrator to be appointed. She testified as to the Notice Program as we will see later.

[8] A second sworn declaration in support of the Motion was filed by a lawyer from Rochon Genova, co-counsels for Plaintiffs. His Affidavit explains, amongst other things, the various procedural steps of this class action since the beginning.

[9] It also adds relevant information as to the understanding of the settlement. The principal allegation of the class action is summarized in his Affidavit as being: “ ... *the subject ignition switches are prone to too-easy rotation and so can inadvertently move from the ‘run’ position to the ‘accessory’ or ‘off’ position while the vehicle is in motion, resulting in a shutdown of the vehicle’s electrical system, complete loss of engine power and steering/braking assists, and disabling of the airbags. This defect is dangerous and has been associated with serious injuries and deaths.*”<sup>2</sup>

[10] The same Affidavit also includes references to “*admissions made by the Defendants of a safety defect in which there was a low-torque ignition switch installed in many of the vehicles identified below, which, under certain circumstances, may inadvertently move out of the ‘Run’ position.*”<sup>3</sup>

[11] According to this Affidavit, personal injury or wrongful death claimants, and claimants under the *Family Law Act* (and analogous legislation in other provinces), known to the Consortium [of lawyers] and identified in the confidential settlement agreements will be eligible to participate in an aggregate settlement process set forth in the confidential settlement agreements entered into on their behalf by the Consortium with Defendants, in which an experienced and neutral third party facilitated the settlement of such claims in the United States, will examine each claimant’s individual documents and

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<sup>1</sup> At the initiative of Counsels, obviously not of the Ontario Superior Court itself.

<sup>2</sup> Affidavit of Vincent Genova sworn December 11, 2023, par. 6.

<sup>3</sup> *Id.* par. 18.

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allocates a confidential settlement amount to each claim in exchange for a release, provided other terms and conditions of the settlement are met<sup>4</sup>.

[12] No such Affidavit was filed or offered in Quebec. No information whatsoever was provided with respect to this confidential settlement and its impact on Quebec members if any.

[13] On January 16, 2024, Justice Perell of the Ontario Superior Court of Justice certified the Ontario Class Action, discontinued class claims for wrongful death, personal injury claims and actual physical property damages arising from a motor vehicle accident involving GM vehicles subject to relevant recalls.

## 1.2 The Application in Quebec

[14] The Court notes that the Application appears on the plumitif of case number 500-06-000687-141 while it does not appear on case number 500-06-00729-158. Nevertheless, the current judgment is intended to apply to both, presuming that the parties either forgot to file the Application in the appropriate file number or that the clerk's office has not noticed the dual numbers on the Application.

[15] Similarly to the Ontario proceedings, the Application seeks to amend the Application for Authorization to remove any allegation regarding certain damages associated with owning a vehicle subject to the recalls<sup>5</sup>. As stated in Section 11.2 of the Settlement Agreement<sup>6</sup>:

“[i]t is a fundamental condition of this Settlement and the intention of the Parties that any and all class or representative claims, suits, actions or proceedings for wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle shall be removed, dismissed or discontinued through a Final Amendment Order or Final Discontinuance Order, and that such claims, suits, actions or proceedings be permitted to proceed as individual claims, suits, actions, or proceedings only”.

[16] The Application also seeks the approval of the Notice Program and the Short and Long Form Notices.

[17] At a case management conference, the Court sought explanations with respect to certain aspects of the Settlement and of the Notice Program. The Court then reviewed the material in English and expressed issues with respect to the Notice Program put in

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<sup>4</sup> *Id.* par. 25 b).

<sup>5</sup> Exhibit R-2, *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* in the *Québec IS Action* (500-06-000687-141) and in the *Amended motion to authorize the bringing of a class action and to ascribe the status of representative* (the *Québec EPS Action* (500-06-000729-158)).

<sup>6</sup> Exhibit R-3.

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place to inform the putative Class Members, and the Short and Long Form Notices. Those issues were not all resolved to the Court's satisfaction. Accordingly, this judgment deals with selected remaining issues<sup>7</sup>.

## 2. APPLICABLE LAW

[18] The key provisions of the Civil Code of procedure (**CCP**) with respect to Authorization, Settlement approval and Notices are as follows:

576. The judgment authorizing a class action describes the class whose members will be bound by the class action judgment, appoints the representative plaintiff and identifies the main issues to be dealt with collectively and the conclusions sought in relation to those issues. It describes any subclasses created and determines the district in which the class action is to be instituted.

The judgment orders the publication of a notice to class members; it may also order the representative plaintiff or a party to make information on the class action available to the class members, including by setting up a website.

The judgment also determines the time limit for opting out of the class. The opting-out period cannot be shorter than 30 days or longer than six months after the date of the notice to class members. The time limit for opting out is a strict time limit, although a class member, with leave of the court, may opt out after its expiry on proving that it was impossible in fact for the class member to act sooner.

579. When a class action is authorized, a notice is published or notified to the class members

- (1) describing the class and any subclass;
- (2) setting out the principal issues to be dealt with collectively and the conclusions sought in relation to those issues;
- (3) stating the representative plaintiff's name, the contact information of the representative plaintiff's lawyer and the district in which the class action is to proceed;
- (4) stating that class members have the right to seek intervenor status in the class action;

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<sup>7</sup> As it is common practice in these matters, the Court provided initial comments on the proposed notices and notice program. The paper process is intended to speed-up the matter and the parties must be given an opportunity to be heard prior to a decision. The parties chose how to respond and invited the Court to discuss ongoing concerns. The Court chose to not further correspond with the parties on the same subject. The law provides for the Court's approval. The Court must exercise its discretion. It is not a negotiation.

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(5) stating that class members have the right to opt out of the class and specifying the procedure and time limit for doing so;

(6) stating that no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action; and

(7) providing any additional information the court considers useful, including the address of the website for the central registry of class actions.

The court determines the date, form and method of publication of the notice, having regard to the nature of the class action, the composition of the class and the geographical location of its members. The notice identifies, by name or a description, any class members who are to receive individual notification. If the court sees fit, it may authorize the publication of an abbreviated notice.

581. At any stage of a class action, the court may order a notice to be published or notified to the class members if it considers it necessary for the protection of their rights. The notice, which must describe the class and include the parties' names, their lawyers' contact information and the representative plaintiff's name, must be clear and concise.

590. A transaction, acceptance of a tender, or an acquiescence is valid only if approved by the court. Such approval cannot be given unless notice has been given to the class members.

In the case of a transaction, the notice must state that the transaction will be submitted to the court for approval on the date and at the place indicated. It must specify the nature of the transaction, the method of execution chosen and the procedure to be followed by class members to prove their claim. The notice must also inform class members that they may assert their contentions before the court regarding the proposed transaction and the distribution of any remaining balance. The judgment approving the transaction determines, if necessary, the mechanics of its execution.

[The Court underlines]

### 3. **ANALYSIS**

[19] This decision deals strictly with the portion of the Application seeking Court's approval of the Short Form Notice<sup>8</sup>, Long Form Notice<sup>9</sup>, and of the Notice Program<sup>10</sup>.

#### 3.1 Short Form Notice

[20] The Short Form Notice is two pages long. The format resembles the one of a press release or of a high-school homework. It does not draw the attention of a potential reader,

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<sup>8</sup> Exhibit R-4.

<sup>9</sup> Exhibit R-5.

<sup>10</sup> Exhibit R-6.

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is not pleasing to the eye and is not enticing putative Class Members to read it has to many words but not enough relevant information. The format requires significant improvement. It is not for the Court to hold the pen or design the notices but rather to ensure that the notices reach their audience and provide relevant information in a clear and concise way.

[21] The law provides for the possibility to have an abbreviated notice. This is in addition to the regular notice (here the Long Form Notice). It is an additional way to inform the putative Class Members. It may not include all the elements of section 579 C.p.c. but in the Court's view, its content should be determined by its intended use. This is one of the difficulties here.

[22] The Notice Program provides for the Short Form Notice to be emailed to Settlement Class Members as well as being published in the newspaper. These are two very different type of use and readers. Furthermore, no evidence was provided as to the number of putative Class Members for which the Settlement Administrator will have a valid active email address compared to the expected total number of Class Members.

[23] As well, section 2. (e) of the Notice Program, provides for a potentially modified version of the Short Form Notice. The Court was not provided with such a modified version for approval. Rather, the parties responded that "**format**"<sup>11</sup> modifications are the ones that would be required by any newspaper to permit the publication of the Notices.

[24] This is very well, but the text does not reflect that modifications are restricted to format. It rather refers to "*potentially modified version*", which basically means anything and everything. Since the Court is asked to approve the Notices, it cannot grant a *carte blanche* to modify the Short Form Notice. Typically, the Court is provided with the notices as they will be published. Otherwise, a guarantee that the actual content (as opposed to format) will not be altered would be required.

[25] The notice only refers to the settlement and not to the approval of the Class Action for settlement purposes. It is both a certification notice and a transaction notice. This should be made obvious. The parties have raised the potential confusion for Class Members between the authorization and the settlement approval if the authorization is highlighted. In the Court's view, it is possible to clearly distinguish the two but not having a reference to certification approval is not an option.

[26] While the criteria to authorize a Class Action are applied differently when the authorization is for settlement purposes, the law does not distinguish between the two types of authorization when it comes to notices. It only requires additional information.

[27] As well, the requested modification to the original Application for Authorization seeking to exclude wrongful death, personal injury (and related family/dependent claims),

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<sup>11</sup> The Court highlights.

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and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle is not mentioned in the Short Form Notice.

[28] The possibility for Class Members to object to the settlement or to exclude themselves from the Class Action is buried in the wording of the Short Form Notice and the indications as to how to proceed are insufficient. An easy way to supplement this would be to insert links to an opt-out form and an exclusion form so that the interested Class Members do not have to go through steps and hoops to opt out or to object. This should be easy to achieve as the Settlement Website is supposed to have information about both issues. It only requires the addition and a direct link to two forms, to which the parties objected to, stating that the CCP does not provide for this. Opting out or objecting are as much a right of putative Class Members than the acceptance of the transaction.

[29] As requested by the Court, the parties agreed to modify the recipient of the opt-out notice. It now refers to the Clerk of the Superior Court as provided for by law as opposed to the Settlement Administrator. Even if the law is silent with respect to whom should receive the objection notice, the Court suggested that it would be preferable to follow a similar process which the parties agreed to. Accordingly, those changes to the notices will be accepted but for one element discussed hereafter in the Long Form Notice review.

### **3.2 Long Form Notice**

[30] The notice is intended to inform putative Class Members of various elements: the authorization of the Class Action for settlement purposes, the modification to the Application for Authorization and the Settlement Agreement and all putative Class Members rights and obligations arising therefrom. It must conform to sections 579, 581 and 590 CPC.

[31] Following the Court's initial comments, the parties modified the Long Form Notice to include most of the missing elements.

[32] The Long Form Notice still does not set out what the principal issues to be dealt with collectively were and what conclusions were sought in relation to those issues. This is standard for a certification notice.

[33] In the Long Form Notice there is no information about how the exclusion of wrongful death, personal injury (and related family/dependent claims), and/or actual physical property damage arising from a motor vehicle accident involving a Subject Vehicle came about. There is no indication that the Class Action sought to obtain such compensation in the first place. There is no information with respect to the prescription period resuming. The issue is not explained as plainly and clearly as it is in Mr. Genova's Affidavit.

[34] As indicated above for the Short Form Notice, the Court recognizes the potential confusion and while the parties' interpretation maybe reasonable from a business point

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of view, it does not quite meet the objective set out in section 579 par. 2 CCP. It is for the parties to design the notice in such a way as to respect the law while avoiding the confusion. Such confusion is not an issue when the certification notice is published first and the settlement approval second. It should be possible to avoid it when the two notices are combined into one.

[35] The Long Form Notice now includes information with respect to the ability for a Class Member to seek intervenor status. It adds that such intervenor may be subjected to a pre-trial examination or become liable for legal costs. Further along, the notice covers the possibility to object to the Settlement.

[36] The distinction between an intervention and an objection may not be obvious to the untrained eye. While referring to the intervenor status, it should be made clear that this aspect is different from objecting to the Settlement and that objecting does not make you readily subject to a pre-trial examination nor responsible for legal costs, except your own. The Court does not want any potential objector to infer that they can be held liable for potential costs as this might deter objectors if they perceive themselves as intervenors.

[37] Finally, the parties made the sending of the opting out form to the Clerks office “optional”<sup>12</sup> while they made the one regarding the potential objection “obligatory”<sup>13</sup>. The one regarding the opting out form cannot be optional.

### 3.3 The Notice Program

[38] The Notice Program provides for the setting up of a Settlement Website by the Settlement Administrator with the following information:

- 38.1. English and French copies of the Settlement Agreement as well as the Certification and Approval notices on the.
- 38.2. A summary of the benefits available to Eligible Claimants;
- 38.3. The ability of Settlement Class Members to sign up to receive updates;
- 38.4. A searchable database by Vehicule Identification Number (VIN);
- 38.5. Information on key dates and procedures for Opting-Out, Objecting and the Settlement Approval Hearings;
- 38.6. A Settlement claims process;
- 38.7. A toll-free phone number;

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<sup>12</sup> If you are a Quebec resident, your opt-out election may be sent to the following address:

<sup>13</sup> If you are a Quebec resident, your objection should be sent by [date], 2024 to the following address:



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[39] Notices include Long-Form Notice to be posted on the Settlement Website, a Short Form Notice to be emailed to Settlement Class Members, a press release, a potentially modified version of the Short Form Notice to be published in the print and digital replica editions of the newspapers and a reminder press release.

[40] As for the dissemination method, the Settlement Administrator will deliver the Short Form Notice by email to Settlement Class Members for whom Defendants have provided a valid e-mail address as well as those Settlement Class Members who have contacted Applicants' counsel. The Short Form Notice will be published in various print newspapers as well as their digital replica.

[41] Counsel for the Applicants will post the Long Form Notices and refer to the Settlement Website.

### **3.3.1 Comments on the Notice Program**

[42] The Court enquired about the use of social media as it has now become an essential and common feature of several notice programs. The answer provided was threefold: a) an executive from the Settlement Administrator testified in the Ontario case as to the sufficiency of the Notice Program<sup>14</sup>, b) the parties wish to keep the administrative costs down to make as many funds as possible available to Class Members, c) there was no social media campaign in the corresponding U.S. settlement and d) the putative Class Members will be emailed directly.

#### **3.3.1.1 An executive from the Settlement Administrator testified in the Ontario case as to the sufficiency of the Notice Program**

[43] Ms. Keough's sworn declaration says:

15. It is my view that the Notice Program as presented serves as an effective and efficient means of bringing the Settlement Agreement to the attention of Class Members through a variety of media outlets. It is also my view that each of Short-Form Certification Notice (Schedule B), Long-Form Certification Notice (Schedule C), Approval Notice (Schedule D), Initial Press Release (Schedule F) and Reminder Press Release (Schedule G) are themselves effective in conveying information about the Settlement to the Settlement Class.

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<sup>14</sup> According to Defendants' counsel the Short Form Notice contains all the necessary and mandatory information, and given that it was approved by Justice Perell as submitted on the basis on the evidence adduced in support of the Certification motion (see notably Keough Affidavit, Exhibit R-1, par. 15, p. 126), it should be approved in Quebec. (See Annex to the Letter of February 7, 2024 at section g).



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[44] For starters, a similar sworn declaration was not offered in the Quebec files. Counsels seem to assume that the evidence filed in Ontario automatically applies to the Quebec files<sup>15</sup>. This would be new law.

[45] Furthermore, Ms. Keough's declaration does not deal with social media and does not explain why not. It is not clear whether the witness testifies as an expert or otherwise. In any case, the opinion is rather thin in terms of supporting facts.

[46] Social media<sup>16</sup> has been represented to this Court, in other files, as being more effective than newspaper notices and much less costly. Why it would be different here is not explained.

[47] In order to give her opinion, the witness and the Court should have an explanation as to what is driving the Notice Program. It will likely be a call to action, a conversion rate as opposed to creating awareness. Explain what is it? What is the breakdown of costs by media, a summary of the effectiveness of each type of recommended media together with the reach, the impressions, the targeted audience, the expected conversion rate and similar information with respect to media that were discarded.

### **3.3.1.2 The parties wish to keep the administrative costs down to make as many funds as possible available to Class Members**

[48] The objective is noble. However, the Court does not have sufficient information which would permit to assess such statement and compare the various media intended to be used.

[49] The Court can identify a few other ways to keep the costs down.

### **3.3.1.3 There was no social media campaign in the corresponding U.S. settlement.**

[50] Whatever happened in the Notice Program of the US settlement is somehow less relevant than what is required for the settlement to be effective in Quebec. We do not know when the Notice Program took place in the US but from Mr. Genova's Affidavit, we see that a Settlement was reached, and a final approval obtained in December 2020. More than 3 years have passed since.

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<sup>15</sup> As a matter of fact, in response to the Court's questions, Defendants' counsel referred the Court to the fact that the notices and the Notice Program had already been approved by Justice Perell of the Ontario Superior Court as if this was sufficient evidence or precedent that it should be approved the same way in Quebec.

<sup>16</sup> This term includes but is not limited to Facebook, Instagram, TikTok, YouTube, blogs, tweets, Snapchat or Instagram reels, Google Ads.

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**3.3.1.4 The putative Class Members will be emailed directly.**

[51] The Court tends to agree with the parties that direct email may be the most efficient way to inform putative Class Members. However, and as indicated earlier, the Court has no evidence of the effectiveness of this email program as it does not have the number of putative Class Members for which the Settlement Administrator will have active email address compared to the expected total number of Class Members.

[52] As well, the fact that the Notice Program provides for newspapers adds may be counter-intuitive if one assumes the email program to be effective.

**CONCLUSION**

[53] Since the only purpose of the Application is to eventually obtain the approval of a settlement, the Court cannot approve it if it is not satisfied with the Notice Program, the Short Form and Long Form Notices. The authorization of the Class Action for settlement purposes as well as the modification of the Application to Authorize the Class Action will be dealt with at a later date, when the Court is satisfied with the Notice Program and the form and content of Notices.

**FOR THESE REASONS, THE COURT:**

[54] **DECLARES** the evidence of the effectiveness of the Notice Program lacking and the Short and Long Form Notices requiring further modifications.

[55] **DEFERS** the approval of the Notice Program, the Short and Long Form Notices as well as the Application, to a subsequent hearing to be scheduled at the request of the parties with the agreement of the Court.

[56] **WITHOUT COSTS.**



Signature numérique  
de Pierre Nollet  
Date : 2024.03.04  
18:38:47 -05'00'

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HONOURABLE PIERRE NOLLET J. S. C.

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Hearing date:      Paper process

**Exhibit "GG"**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

GENERAL MOTORS LLC IGNITION  
SWITCH LITIGATION

This Document Relates to:

ALL ECONOMIC LOSS CLASS ACTIONS

No. 14-MD-2543 (JMF)

**ALLOCATION DECISION OF LAYN R. PHILLIPS**

## I. INTRODUCTION

1. The underlying “Actions” in this case are generally comprised of (a) all economic loss claims, whether asserted as class, mass, or individual actions, however denominated, that are consolidated for pretrial proceedings in the United States District Court for the District of New York in *In re: General Motors Ignition Switch*, Case No. 14-MD-2543 (JMF) (the “MDL Court”), and (b) all economic loss claims, whether asserted as class, mass, or individual claims, including all Late Claim Motions and all Proposed Proofs of Claim involving alleged economic loss, however denominated, filed or asserted in the Bankruptcy Code Chapter 11 case pending in the United States Bankruptcy Court for the Southern District of New York captioned *In re Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.*, Case No. 09-50026 (MG) (the “Bankruptcy Court”) (collectively referred to as “the Actions”).

2. In Order No. 132 issued on September 11, 2017 (Docket No. 292), the MDL Court appointed the undersigned as mediator for the Actions, and the undersigned has overseen the mediation efforts in the economic loss cases since that time.

3. After numerous mediation sessions, the parties have reached agreement in principle on certain key terms to resolve the Actions on a Class-wide basis (the “Proposed Settlement”). The parties are working to reach a final agreement and execute a master Settlement Agreement.<sup>1</sup>

4. The Proposed Settlement will provide, among other things, monetary benefits to the Proposed Class Members. In order to receive a monetary payment, Class Members will be required to file claims. Steve W. Berman of Hagens Berman Sobol Shapiro LLP and Elizabeth J. Cabraser of Lief Cabraser Heimann & Bernstein, LLP, who are “Plaintiffs’ Class Counsel,” are

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<sup>1</sup> All terms not defined herein have been defined in the Settlement Agreement.

expected to propose a Plan of Allocation under which a “Base Payment Amount” will be calculated by dividing the number of qualified claims submitted by Class Members into the Net Common Fund.

5. Plaintiffs’ Class Counsel have requested that I oversee an allocation proceeding in which (a) counsel representing each proposed Subclass (“Allocation Counsel”) present evidence relating to the strength of the claims for the Subclass that he represents (the “Allocation Proceeding”), and (b) I decide, based on the relative strengths of the claims for each Subclass, whether the Base Payment Amount should be adjusted by Subclass (the “Allocation Decision”).

6. Plaintiffs’ Class Counsel requested that members of the Executive Committee volunteer to serve as Allocation Counsel for the Subclasses, and members of the following Executive Committee firms volunteered to do so: Marc Seltzer of Susman Godfrey LLP (Subclass 1), Kevin Dean of Motley Rice LLC (Subclass 2), Matthew Weinshall of Podhurst Orseck, P.A. (Subclass 3), Steven Davis of Boies Schiller Flexner LLP (Subclass 4), and John Tangren of DiCello Levitt Gutzler (Subclass 5).

7. An Allocation Proceeding was held on February 21, 2020, at which Allocation Counsel submitted written and oral arguments seeking to demonstrate the strength of each Subclasses’ claims in the Actions. At my request, Allocation Counsel made follow-up submissions on February 24, 2020. I have considered all of these arguments and evidence in rendering the Allocation Decision below.

## **II. THE PROPOSED CLASS AND SUBCLASSES**

8. The Settlement Class is expected to be defined generally as “all Persons who, at any time as of or before the Recall Announcement Date of the Recall(s) applicable to the Subject Vehicle, own(ed), purchase(d), and/or lease(d) a Subject Vehicle in any of the fifty States, the

District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and all other United States territories and/or possessions.” “Recall Announcement Date” and the “Subject Vehicles” are defined in the Settlement Agreement.

9. The Class is divided into five proposed Subclasses defined as follows:

Subclass 1: The Delta Ignition Switch Subclass, comprised of those Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to NHTSA Recall No. 14v047. The representatives of Subclass 1 are Valeria Glenn, Marion Smoke, Grace Belford, Barbara Hill, Ray Wieters, Camille Burns, Chimen Basseri, Michael Benton, Sylvia Benton, Kimberly Brown, Crystal Hardin, Javier Malaga, Winifred Mattos, William Rukeyser, Yvonne Elaine Rodriguez, Annet Tivin, Nathan Terry, Michael Pesce, LaTonia Tucker, Neysa Williams, Jennifer Dunn, Barry Wilborn, Patricia Backus, Susan Benner, Heather Holleman, Alphonso Wright, James Dooley, Philip Zivnuska, Dawn Talbot, Lisa West, Debra Quinn, Robert Wyman, Colin Elliott, Richard Leger, Sheree Anderson, Rafael Lanis, Anna Allshouse, Janelle Davis, William Hill, Elizabeth D. Johnson, Linda Wright, Kenneth Robinson, Laurie Holzwarth, Susan Rangel, Sandra Horton, Wayne Wittenberg, Michael Amezquita, Steven Sileo, Javier Delacruz, Bernadette Romero, Donna Quagliana, Michael Rooney, William Ross, Leland Tilson, Jolene Mulske, Bonnie Taylor, Jerrile Gordon, Paulette Hand, William Bernick, Janice Bagley, Shawn Doucette, Shirley Gilbert, George Mathis, Paul Pollastro, Mary Dias, Garrett Mancieri, Frances James, Norma Lee Holmes, Helen A. Brown, Silas Walton, Michael Graciano, Keisha Hunter, Alexis Crockett, Blair Tomlinson, Melinda Graley, and Nancy Bellow.

Subclass 2: The Key Rotation Subclass, comprised of those Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to NHTSA Recall Nos. 14v355, 14v394, and 14v400. The representatives of Subclass 2 are Gerald Smith, Joe Glover, Yvonne James-Bivins, Michelle Thomas, Trina Bruche, John Marvin Brutche, Jr., Wandell Littles Beazer, Stacey Bowens, Debra Forbes, Rhonda Haskins, Verlana Walker, Jenny Mathis, Debra Cole, Charlene Kapraun, Keith Nathan, Martha Cesco, Cheryl Reed, Lyle Wirtles, Lori Green, Raymond Naquin, Jerrod Pinkett, Brittany Vining, Sophia Marks, David Price, Brian Semrau, Franklin Wloch, Christine Leonzal, Larry Haynes, Youloundra Smith, Deloris Hamilton, Ronald Robinson, Heather Francis, Arteca Heckard, Irene Torres, Gwen Moore, Lisa Axelrod, Tracie Edwards, Georgianna Parisi, Bradley Siefke, Steven M. Steidle, William Troiano, Carleta Burton, Shelton Glass, Annette Hopkins, Cassandra Legrand, Kimberly Mayfield, Gareebah Al-ghamdi, Dawn Bacon, Dawn Fuller, and Malinda Stafford.

Subclass 3: The Camaro Knee-Key Subclass, comprised of those Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to NHTSA Recall No. 14v346. The representatives of Subclass 3 are Santiago Orosco, Harvey Sobelman, Billy Mosley, Cliff Redmon, Valerie Mortz Rogers, Harry Albert, Ashley Murray, Mario Stefano, Debra Cummings, Bruce Wright, Denise Wright, and Sharon Newsome.

Subclass 4: The Power Steering Subclass, comprised of those Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to NHTSA Recall No. 14v153. The representatives of Subclass 4 are Celeste Deleo,



Dale Dowdy, Lane Blackwell, Jr., Melody Lombardo, Susan Viens, Reggie Welch, Felisha Johnson, and Reynaldo Spellman.

Subclass 5: The Side Airbag Subclass, comprised of those Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to NHTSA Recall No. 14v118. The representatives of Subclass 5 are Kellie Cereceres, Margaret Lesnansky, Joni Ferden-Precht, Rochelle Bankhead, Towana Ferguson, Heidi Wood, Carl Bosch, Evelyn Bosch, Bryan Wallace, Jennifer Sullivan, Christopher Tinen, Bonnie Hensley, Richelle Draper, Gail Bainbridge, Raymond Berg, David Schumacher, Greg Theobald, Alexis Byrd, Paul Jenks, and Christy Smith.

### III. FINDINGS

10. Having aided the parties in reaching the Proposed Settlement, I have now been asked by Plaintiffs' Class Counsel to oversee an Allocation Proceeding and determine how to distribute the Net Common Fund among the five proposed Subclasses that comprise the Proposed Settlement Class.

11. The Plan of Allocation proposed by Plaintiffs' Class Counsel first requires the calculation of a pro rata "Base Payment Amount" determined by dividing the number of qualified claims submitted by Settlement Class Members into the Net Common Fund.

12. The Base Payment Amount to be distributed pro rata among the qualified claims in each Subclass will then be increased or decreased based upon my determination to increase the distribution to one or more Subclasses.

13. In arriving at the Allocation Decision, I have relied on the following: the detailed 64-page Economic Loss Plaintiffs' Offer of Proof dated July 20, 2019 presenting the Plaintiffs'

best evidence, based on a detailed review of all discovery in this matter, supporting liability claims on behalf of each proposed Subclass; the Deferred Prosecution Agreement of September 16, 2015 with its attached Statement of Facts (the “DPA” and “DPA Statement of Facts,” respectively). These documents provide me with admissions by GM and a Statement of Facts vetted by the U.S. Attorney’s Office for the Southern District of New York. I have also reviewed the May 16, 2014 Consent Order that GM entered into with the National Highway Traffic Safety Administration (“NHTSA Consent Order”) and the letters submitted by New GM to NHTSA pursuant to 49 C.F.R. § 573.6 on March 17, 2014, April 14, 2014 and June 19, 2014, explaining from New GM’s perspective the events leading up to the Recalls (the “573 Letters”). Finally, I have received written and oral presentations from Allocation Counsel for each Subclass, including arguments as to how the Subclasses compare with respect to the strength of their liability cases.

14. I am not making any findings about the likely outcome of a trial on the merits, but rather evaluating the relative strengths of the liability claims of each of the Subclasses.

15. I am relying on the information detailed above and the knowledge I gained as Court Mediator during six in-person mediation sessions, numerous phone conferences and review of multiple written submissions. I have not independently reviewed the more than 700 depositions taken in these cases or the more than 20 million pages of documents produced. Such a process would have been virtually impossible to complete in a realistic time frame.

16. In their presentations to me, Allocation Counsel for all five subclasses argue that they overpaid for their GM vehicles because they purchased/leased vehicles with safety defects.

17. In order to succeed at a trial, each Subclass would have to prove, among other things, (1) liability and (2) economic injury.

18. With respect to economic injury, on August 6, 2019 the Court held that Plaintiff's proof, including its expert testimony, was insufficient to establish benefit of the bargain damages. Given the Court's rejection of the proof and experts relied on by Plaintiffs to establish damages, and the fact that the most recent damage studies submitted by Mr. Boedeker on behalf of Plaintiffs suggest there is no material difference in damages from Subclass to Subclass, I am focusing my analysis on the relative likelihood of establishing liability rather than attempting to differentiate among the Subclasses on the basis of relative damages.

19. Based upon my review I have concluded that (i) Subclass 1 has a materially better case on liability than any of the other Subclasses and is therefore entitled to a 2X multiplier, and (ii) that Subclass 2's case is less robust than Subclass 1's but superior to those of Subclasses 3, 4 and 5 and, therefore, Subclass 2 is entitled to a 1.5X multiplier. I have concluded that Subclasses 3, 4, and 5 are not entitled to a multiplier and should all be treated similarly. All three of the Subclasses have weaker liability cases than Subclasses 1 and 2 and I find no distinction among them sufficient to warrant disparate treatment.

20. The conclusion that Subclass 1 is entitled to a 2X multiplier is based primarily on the fact that New GM entered into the DPA, pursuant to which New GM admitted that with respect to vehicles owned or leased by the members of Subclass 1, "GM knowingly manufactured and sold several models of vehicles equipped with the Defective Switch." DPA Statement of Facts ¶ 115. New GM agreed that it would not "make any statement, in litigation or otherwise, contradicting the Statement of Facts . . . ." DPA Letter Agreement ¶ 13.

21. Because of the DPA, it is clear that Subclass 1 has the strongest liability case. In addition, in the NHTSA Consent Order GM acknowledged there was a violation of "the Safety

Act by failing to provide notice to NHTSA on the safety-related defect that is the subject of Recall No. 14v047 . . . .”

22. Subclasses 2 and 3 have argued vigorously that in many ways they are similarly situated to Subclass 1, but I nevertheless conclude that their positions are far weaker than Subclass 1’s. Most importantly, neither can take direct advantage of the DPA Statement of Facts which never refers to the vehicles subject to the Subclass 2 or 3 Recalls. Subclass 2, however, has made a credible case that using the evidence developed with respect to Subclass 1, it can piece together a liability case that is stronger than that of any Subclass other than Subclass 1.

23. Specifically, Subclass 2 argues, based on documents and deposition testimony, that because of: (1) the similarity between the ignition switches in the Subclass 1 and Subclass 2 vehicles, and (2) Old GM’s and New GM’s cross-platform knowledge, Old GM and New GM “knowingly sold” the 14v355, 14v394 and 14v400 vehicles “with defective ignition switches.” Without commenting on the outcome of a trial, I conclude that the likelihood of success for Subclass 2 is lower than that of Subclass 1, but higher than that of all other Subclasses. I have therefore concluded that Subclass 2 is entitled to a 1.5X multiplier.

24. Subclass 3 is faced with a more difficult liability case than Subclass 2 because the allegedly defective ignition switch in vehicles owned and leased by Subclass 3 members cannot be said to be identical or nearly identical to the Subclass 1 ignition switch which is covered in the DPA.

25. The different phrasing of the Offer of Proof with respect to the Subclasses makes this clear. For Subclass 2 the Offer of Proof argues that given “cross-platform knowledge” Old GM “had knowledge” of the defect in 2002 “and otherwise knew about this defect and its dangerous consequences no later than 2007.” ¶54.

26. In contrast to the liability case Subclasses 1 and 2 can present, the case for Subclass 3 is weaker, requiring argument by analogy and multi-step evidentiary links to attempt to bring itself within the umbrella of the DPA. In addition, Subclasses 3, 4 and 5 face a difficult path to establishing Old and New GM's contemporaneous knowledge of the respective defects, having to depend primarily on post-sale customer complaints rather than the DPA.

27. Thus, with respect to Subclass 3, the Offer of Proof argues that New GM's knowledge is evidenced by the facts that between 2010 when the vehicles were first sold, and 2014, there were three known accidents, eight vehicle owner questionnaires, three lawsuits, one warranty claim and 14 field reports received. ¶79. The Offer of Proof then argues that Old GM's knowledge in 2002 concerning the Delta Ignition Switch "should have triggered an investigative response across platforms given the platforms common parts ...." Id. at 84. New GM states that the issue was first identified internally in 2014 "during GM evaluations of 2014 GM current production vehicles for knee to key clearance." June 19, 2014, 573 Letter at 1.

28. Similarly, the Offer of Proof with respect to Subclass 4 states that there were "common defects in the electric power steering systems" and focuses on post-sale customer complaints and warranty claims. That contention leaves open the issue as to whether there was sufficient data to put Old GM and New GM on notice of the defect. New GM notes that beginning in 2004 Old GM remediated the problem, first when supplier Delphi replaced the supplier it was using to manufacturer the torque sensors identified as contributing to the issue, and thereafter when Old GM announced a Customer Satisfaction program that addressed the issue and led NHTSA to close an Engineering Analysis investigation. Attachment B to April 14, 2014, 573 Letter.

29. Finally, as to Subclass 5, the Side Airbag Subclass, there is no similarity to or overlap with Subclass 1 and the proof as to Old GM's or New GM's knowledge of the defect as detailed in Plaintiffs' Offer of Proof is weaker than that available to Subclasses 1 and 2.

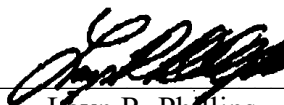
30. It would be impossible to create a perfect or even near perfect allocation among and within the Subclasses. The evidence is complex, technical and nuanced, and New GM and the GUC Trust would undoubtedly contest liability vigorously. The time and expense of five separate Subclass trials on the merits and a potentially complex and costly claims processing system would eat up a significant amount of the settlement fund and delay distribution by at least a year and probably far longer. I believe that the Allocation Decision detailed above represents a fair, equitable and reasonable distribution among the Subclasses.

#### IV. ALLOCATION SUMMARY

Based on the foregoing findings, I conclude that the Base Payment Amount should be adjusted (or not) as follows for each Subclass:

Subclass No.	Subclass Name	Base Payment Amount Adjustment
1	Delta Ignition Switch Subclass	2X
2	Key Rotation Subclass	1.5X
3	Camaro Knee-Key Subclass	No Adjustment
4	Power Steering Subclass	No Adjustment
5	Side Airbag Subclass	No Adjustment

DATED: March 25, 2020



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Layn R. Phillips

# TAB 4

Court File No.: CV-14-502023-00CP

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

EDWARD OBERSKI, AMANDA OBERSKI, and STACEY GREEN

Plaintiffs

and

GENERAL MOTORS LLC and GENERAL MOTORS OF CANADA LIMITED (now  
known as GENERAL MOTORS OF CANADA COMPANY)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF JENNIFER M. KEOUGH  
(Motion for Approval of the Amended Settlement Agreement and Class Counsel  
Fees, sworn July 24, 2024)**

I, JENNIFER M. KEOUGH, of the City of Seattle, in the State of Washington,  
United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Chief Executive Officer and Co-Founder of JND Legal Administration (“JND”), a legal management and settlement administration services firm.
2. JND has been engaged by Settlement Class Representatives (who are Stacey Green and Michael Gagnon) and the Defendants (which are General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) and General Motors LLC (“New GM”)), collectively the “Parties”, as well as Co-Lead Counsel (which are Rochon Genova LLP and Kim Spencer McPhee Barristers P.C.), to serve as Settlement Administrator for the Settlement of this matter, subject to the entry of the Settlement



Approval Orders and other terms and conditions of the Settlement Agreement. As such, this affidavit is based on my direct knowledge, as well as upon information provided to me by experienced JND employees and Co-Lead Counsel and the Defendants.

3. All capitalized defined terms used in this affidavit have the meanings ascribed to them in Amended Settlement Agreement, except to the extent that they are otherwise defined herein.

4. I was retained by Co-Lead Counsel and the Defendants to design a program intended to provide notice to Settlement Class Members of the certification of the Ontario Action and authorization of the Québec Actions, the right to intervene in the Québec Actions, the right to opt-out of the proceedings and the right to object to the proposed settlement, and of the scheduling and outcome of the Settlement Approval Hearings, including the Approval Notices and the Claims Program.

5. Pursuant to the May 6, 2024 Order of the Honourable Justice Nollet and the May 7, 2024 Amended Order of the Honourable Justice Glustein, JND was appointed as Settlement Administrator for the purposes of carrying out the Notice Program and related administrative items, including the Settlement Website. I previously swore an affidavit in support of this appointment, which is attached as **Exhibit “A”**.

6. The components of, and rationale for, the Notice Program are set out in my initial affidavit and attached as Exhibit “B2” to my initial affidavit. The Notice Program is designed to provide notice both before and after the Settlement Approval Hearings.

## I. EXPERIENCE OF JND

7. I am the co-founder and CEO of JND, a legal administration services provider headquartered in Seattle, Washington. I hold a Master of Science degree with a Finance specialization from Seattle University and a J.D. from Seattle University School of Law.

8. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases. JND has direct experience with the subject vehicles, recalls and defects in the analogous US proceeding and settlement. JND acted as the administrator in the US economic loss class action settlement *In re: General Motors LLC Ignition Switch Litigation*, (MLD No. 14-MDL-2543 (JMF)), which concerns the same vehicles and defects (the US proceeding also related to an additional air-bag defect) as this proceeding.

9. JND also has an Auto Solutions team with experience implementing notice programs and claims administration for well over fifty other automotive class actions, including the Mercedes-Benz Emissions Litigations in both the U.S. and Canada.

10. As JND's CEO, I am involved in all facets of the company's operations, including monitoring the implementation of our notice and claims administration programs. I have more than 23 years of experience creating and supervising notice and claims administration programs and have personally overseen well over 500 matters. I have also personally led the design and implementation of a substantial number of Canadian legal notification campaigns, most recently the notice plans for the Loblaw Voluntary Remediation Card Program and the settlement in *Kalra v. Mercedes-Benz Canada, Inc.*, (Ontario Court File No. CV-16-550271-00CP).

11. Attached as **Exhibit “B”** are additional details of JND’s class action administration experience, including a list of class actions in which I directed certification and/or settlement approval notice programs.

## **II. CERTIFICATION NOTICE PROGRAM**

### **a) Overview Of The Notice Program**

12. The Notice Program commenced on May 20, 2024. The results of the Notice Program, as of July 24, 2024, are attached as **Exhibit “C”** to this affidavit. Based on the collected data and my personal experience as a court-appointed settlement administrator, the Notice Program was successful. It effectively delivered Notice of Certification/Authorization, the dates and purpose of the Settlement Approval Hearings, and the right of Settlement Class Members to opt-out of or object to the Settlement (“Notice of Certification/Authorization and Settlement Approval Hearings”).

13. Notice of Certification/Authorization and Settlement Approval Hearings was provided through a) the Settlement Website which went live on May 17, 2024; b) Co-Lead Counsel’s firm websites; c) press releases; d) newspaper publications; e) emails; and f) digital media (Google Display Network and Facebook). On the following page is a table outlining the Notice Program and the various dates that the items were scheduled:

Website to go live	Friday	May 17, 2024
Certification Notice - Email Campaign to Start	Monday	May 20, 2024
Simplified Certification Notice Publication Date(s)		
Press Release (English and French)	Monday	May 20, 2024
Start of Social Media Campaign	Monday	May 20, 2024
Newspaper Notice (six insertions)	Monday/Tuesday/Saturday	May 20/21/25, 2024
End of Social Media Campaign (GDN, Facebook, 74 million impressions)	Sunday	June 16, 2024
Exclusion Deadline (received)	Friday	July 19, 2024
Objection Deadline (received)	Friday	July 19, 2024
Provide opt-out and objection requests to Parties	Tuesday	July 23, 2024
Approval Hearing - Ontario	Tuesday	July 30, 2024
Approval Hearing - Quebec	Wednesday	July 31, 2024

14. On May 20, 2024, press releases were issued advising Settlement Class Members that the proceedings were certified/authorized for settlement purposes, of the opt-out and objection deadlines, and of the dates of the Settlement Approval Hearings. Attached as **Exhibit “D”** is a copy of the press releases which were published in English and French.

15. The Notices of Certification and Settlement Approval Hearings were also published in the following newspapers on the dates indicated below:

- a) *La Presse* + (Digital Only) on Saturday, May 25, 2024
- b) *Le Journal de Québec* (**Exhibit “E”**) on Tuesday, May 21, 2024;
- c) *Montreal Gazette* (**Exhibit “F”**) on Saturday, May 25, 2024;
- d) *National Post* (**Exhibit “G”**) on Saturday, May 25, 2024;
- e) *The Globe and Mail* (**Exhibit “H”**) on Monday, May 20, 2024; and
- f) *Toronto Star* (**Exhibit “I”**) on Saturday, May 25, 2024.

16. As of July 24, 2024, the Settlement Website has had 74,804 unique visitors and 133,370 total views. The Settlement Website offers the option to register for email updates on the status of the Settlement, including information related to the Settlement Approval Hearings and any related decisions of the Courts, as well as notification of the commencement and end of the Claims Program. As of July 24, 2024, 2,192 Settlement Class Members have registered to receive updates.

17. JND sent the Notices of Certification and Settlement Approval Hearings via email to 702,631 Settlement Class Members. JND tracks all email notices to confirm whether the email was ultimately delivered. Of the 702,631 Settlement Class Members that were sent email notice, the email notice was returned as undeliverable for 147,336 Settlement Class Members, resulting in successful delivery to 555,295 Settlement Class Members.

18. The digital media campaign for Notice of Certification/Authorization and Settlement Approval Hearings commenced on May 20, 2024, and ran until June 16, 2024. The digital media campaign utilized the Google Display Network and Facebook. In total, the digital media Certification Notice campaign delivered 74,842,094 digital impressions (digital media impressions are the estimated number of the times individuals from the targeted audience had an opportunity to be exposed to a notice). Specifically, the Google Display Network Certification Notice campaign delivered 72,774,070 digital impressions; the Facebook Certification Notice campaign delivered 2,068,024 digital impressions. The digital effort reached approximately 70% of potential Settlement Class Members 18 years of age or older.

19. JND established a case-specific, dedicated toll-free telephone number for Settlement Class Members to call to obtain information about the Settlement. As of July 24, 2024, we have received 385 calls.

20. The direct notice and media notice combined reached over 80% of the Settlement Class. Based on the collected data and my experience as a court-appointed settlement administrator, I believe the Certification/Authorization and Settlement Approval Hearing Notice Program was successful. It effectively delivered Notice of Certification/Authorization, the Settlement Approval Hearings, and the right of Settlement Class Members to opt-out or object to the Settlement.

**b) Objections and Opt-Outs**

21. As of July 24, 2024, JND has not received and is not aware of any Objection requests. The deadline for Objections was July 19, 2024.

22. As of July 24, 2024, JND has received six Opt-Out requests from purported National Settlement Class members. However, one of the Opt-Outs was from an individual that owned a 1994 Buick Regal, which is **not** one of the Subject Vehicles included in the Ontario Action or the Québec Actions, or in the Settlement Agreement. We reached out to this individual to ascertain if they purchased, owned or leased a different vehicle that may be one of the Subject Vehicles. The individual, however, did not respond to or return any calls. Another of the six potential Opt-Outs did not provide the VIN of her 2008 Pontiac G5. One other potential Opt-Out did not provide a VIN, year, make, or model of his vehicle. The deadline for Opt-Outs was July 19, 2024 and there are therefore only three valid Opt-Outs from the National Settlement Class.

23. I am advised by Alexis Leray, Defendants' counsel in Québec, that the Clerk of the Superior Court of Quebec received only one Opt-Out from Québec Settlement Class Members.

### **III. ANTICIPATED SETTLEMENT BENEFITS FOR SETTLEMENT CLASS MEMBERS**

24. The Settlement Fund Amount is separate and apart from the fund for the Plaintiffs' Counsel Fee Amount. The only charges to the Settlement Fund Amount are the Administrative Expenses, taxes on interest earned, and with respect to the National Settlement Class only, the 10% Class Proceedings Fund levy. The payment of Administrative Expenses will be the only payment JND receives in relation to the Ontario Action and the Quebec Actions.

25. JND supplied Co-Lead Counsel and Defendants' Counsel with an estimated range of our fees and expenses for the entire administration contemplating take-up rates of 5% and 10%. The expenses were based on an estimated class size of 1,344,000, which is derived from GM's sales and distribution data, and did not include the revised Notice Program incorporating digital media notice. The calculations were based on the following assumptions that are, in my experience, reasonable:

- a) Project duration of 18 months;
- b) No direct postal mailing of Certification Notices will be required;
- c) Direct postal mailing of Approval Notices to approximately 290,000 Settlement Class Members (plus approximately 16,000 remails);
- d) A Public Notice Plan will be required for the Approval Notice in order to reach Settlement Class Members with stale addresses;
- e) 15,000 Interactive Voice Response calls;
- f) Email correspondence handled primarily via auto reply;

- g) 80% of claims are submitted online and 20% of claims are submitted by paper;
- h) 10% of claims require Deficiency Notices and 70% of those claims are cured;
- i) 10% of claims require Recall Repair Deficiency Notices and 70% of those claims are cured; and
- j) All valid claims will receive electronic payments.

26. Based on the assumptions above, the initial estimate, and the revised Notice Program adding a digital media campaign, JND has performed the below conservative calculations using the higher range of estimated Administrative Expenses (“Expected Administrative Expenses”) associated with a 5% take-up rate, 10% take-up rate, and 15% take-up rate and the corresponding anticipated Net Settlement Amounts. Using the anticipated Net Settlement Amount for each take-up rate, JND calculated the expected Final Base Payments to the Settlement Class Members. All the dollar amounts provided below are in CAD.

**a) Expected Administrative Expenses and Expected Net Settlement Amount**

27. Based on the assumptions above, and utilizing the higher range of estimated administration expenses, JND has conservatively calculated the net settlement amounts associated with 5%, 10%, and 15% take-up rates as provided below:

- a) **5% take-up rate:** The Expected Administrative Expenses corresponding to a 5% take-up rate are \$1,637,712 and the resulting Net Settlement Fund Amount will be \$10,362,288. The Expected Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification/Authorization and Settlement Approval Hearings which was approximately \$417,893. Taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (i.e. earned income) in the escrow account.
- b) **10% take-up rate:** The Expected Administrative Expenses corresponding to a 10% take-up rate are \$1,918,785 and the Net Settlement Fund Amount will be \$10,081,215. The Expected Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification/Authorization and



Settlement Approval Hearings which was approximately \$417,893. Taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (i.e. earned income) in the escrow account; and

- c) **15% take-up rate:** The Expected Administrative Expenses corresponding to a 15% take-up rate are \$2,211,923 and the Net Settlement Fund Amount will be \$9,788,077. Expected Administrative Expenses are inclusive of the costs of administering the campaign for Notice of Certification/Authorization and Settlement Approval Hearings which was approximately \$417,893. Taxes applicable to the Settlement Fund Amount will be taxes charged to the accrued interest (i.e. earned income) in the escrow account.

28. We anticipate that the Expected Administrative Expenses will not exceed option (b), as that is based on a take-up rate of 10% which is similar to the approximate 10% take-up rate for the US settlement of the analogous GM proceeding. Certain learnings from the US experience, including the take-up rate, can be applied to the Canadian settlement. In our experience, when you have analogous proceedings in the US and Canada, the demographic of claimants is largely similar in both jurisdictions. These factors often result in similar rates of engagement and response to the Settlement Approval Notices, and thus a similar proportion of class members filing claims (the take-up rate). Although Canadian Settlement Class Members may ultimately be more or less engaged than the US class members, based on our experience and general practice, it is reasonable and prudent to use the take-up rate in the US to estimate future administrative expenses.

29. It should also be noted there are some differences that limit our ability, at this stage, to compare the engagement of Canadian Settlement Class Members and US class members. Namely, in Canada, there is an additional, earlier stage of notice—notice of certification/authorization for settlement purposes and to advise class members of the date of the settlement approval hearing. For the US GM settlement, we only gave notice of the settlement and the commencement of the claims filing procedure.

**b) Breakdown of Expected Administrative Expenses**

30. The Expected Administrative Expenses can be divided into two categories: a) expenses that will be static regardless of the take-up rate and b) expenses that will fluctuate based on the take-up rate.

31. First, over 50% of the Expected Administrative Expenses will not change or differ based on the actual take-up rate, which include the below components:

- a) Design and Development of Dedicated Settlement Website;
- b) Monthly Hosting and Maintenance Charge for Settlement Website;
- c) Certification Notice Media Plan Cost;
- d) Approval Notice (email notice; print and mail notice; track and research undeliverable without forwarding addresses, media plan);
- e) Contact Centre Setup and Maintenance;
- f) Establishing, Managing and Reconciling Distribution Account and Attending to Tax Requirements of Distribution Account; and
- g) Domain Charges, PO Box Charges, and Other Miscellaneous Expenses.

32. Second, the following items related to the Claims Program will fluctuate based on, and will correspond to, the actual take-up rate:

- a) Processing Paper Claims Received;
- b) Processing Electronically Filed Claims;
- c) Claim Validation and Review, including Identification of Deficiencies;
- d) Mailing Deficiency Notices;
- e) Emailing Deficiency Notices;
- f) Processing Deficiency Notice Responses received by mail;
- g) Processing Deficiency Notice Responses received by email;
- h) Validating and Reviewing Deficiency Notice Responses;

- i) Mailing Recall Repair Deficiency Notices;
- j) Emailing Recall Repair Deficiency Notices;
- k) Processing Recall Repair Deficiency Notice Responses received by mail;
- l) Processing Recall Repair Deficiency Notice Responses received by email;
- m) Validating and Reviewing Recall Repair Deficiency Notice Responses;
- n) Disseminating electronic payments;
- o) Project Oversight and other required tasks, including interaction with parties, data intake, management and analysis, processing opt-out and objections, preparation of any required affidavits, resolution of issues, supervision of notices, claims and distribution processes; and
- p) Postage for Notice, Remails, and Distributions.

33. As detailed above, over 50% of the Expected Administrative Expenses relate to static costs, most of which are associated with the Notice Program. Regardless of the actual take-up rate, these numbers are not expected to increase. For instance, regardless of the take-up rate, the costs of the media and social media Notices will remain the same, as will the cost of operating and maintaining the Settlement Website.

34. Other Expected Administrative Expenses, such as the costs associated with mailing out paper claim forms by request to Settlement Class Members and the costs of administering the Claims Program, will be affected by the actual take-up rate.

35. This categorical breakdown of static and dynamic Expected Administrative Expenses is consistent with my experience acting as court-appointed settlement administrator in other class proceedings.

**c) Expected Payments To Each Subclass**

36. The benefits available under the Settlement Agreement vary based on the Subclass to which a Settlement Class Member belongs

37. Pursuant to s. 4.3 of the Settlement Agreement, a Base Payment Amount will be calculated for all Eligible Claims. Then, an Adjusted Base Payment Amount will be determined for each Subclass as follows: the Delta Ignition Switch Subclass members shall be allocated twice (2x) the Base Payment Amount; the Key Rotation Subclass members shall be allocated one-and-a-half times (1.5x) the Base Payment Amount; and the Camaro Knee-Key and Electric Power Steering Subclasses will be allocated one times (1x) the Base Payment Amount. The final payment amount to Settlement Class Members in each Subclass will then be calculated on a *pro rata* basis up to the Net Settlement Fund.

38. Based on the Expected Administrative Expenses for each of a 5%, 10%, and 15% take-up rate and the above calculations for the Settlement Class Member payments, the expected payment amount that will be provided to Settlement Class Members in each Subclass is set out in the table below:

<b>Subclass</b>	<b>Estimated Final Base Payment Amount (5% Take-Up)</b>	<b>Estimated Final Base Payment Amount (10% Take-Up)</b>	<b>Estimated Final Base Payment Amount (15% Take-Up)</b>
Delta Ignition Switch	\$192.76	\$93.77	\$60.69
Key Rotation	\$144.57	\$70.32	\$45.52
Camaro Knee-Key	\$96.38	\$46.88	\$30.35
Electric Power Steering	\$96.38	\$46.88	\$30.35

39. For the National Settlement Class Members, the Class Proceedings Fund 10% levy, as required by s. 10(3)(b) of O. Reg. 771/92 (under the *Law Society Act*, R.S.O. 1990 c. L.8), will be deducted from each of the above Estimated Final Base Payment Amounts and transmitted to the Law Foundation of Ontario.

#### **IV. PROPOSED SETTLEMENT APPROVAL NOTICE PROGRAM**

##### **a) Approval Notices**

40. Subject to the approval of the Courts, the Approval Notice will be substantially in the form attached as Schedule “D” to the Settlement Agreement.

41. The Approval Notice will advise Settlement Class Members that a nationwide settlement of economic loss claims has been approved by the Courts and will provide a table of the Subject Vehicles, Defects and Recalls covered by the Settlement Agreement.

42. The Approval Notice will also advise Settlement Class Members of the benefits of the Settlement Agreement, namely that the Settlement Agreement provides a \$12,000,000 Settlement Fund Amount (less Administrative Expenses, taxes on interest earned, and, for National Settlement Class members, the 10% Class Proceedings Fund levy) for Settlement Class Members. The Approval Notices will be updated to advise that, for the National Settlement Class members, the Class Proceedings Fund 10% levy, as required by s. 10(3)(b) of O. Reg. 771/92 (under the *Law Society Act*, R.S.O. 1990 c. L.8), will be deducted from the Final Base Payment Amounts and transmitted to the Law Foundation of Ontario. The Settlement Website and the website of Co-Lead Counsel’s firms have been updated to advise Class Members of the 10% levy that will be charged by the Class Proceedings Fund to the Final Base Payment Amounts provided to National Class Members.

43. The Approval Notice will also advise Settlement Class Members of the Plaintiffs' Counsel Fee Amount that has been approved by the Courts and that such fees will be paid separately from, and will not reduce, the Settlement Fund Amount.

44. The Approval Notice will advise Settlement Class Members that to receive money from the Settlement Fund Amount, they must submit a Claim Form electronically or via mail or courier and that the Claim Form is available on [gmignitionswitchsettlement.ca](http://gmignitionswitchsettlement.ca).

45. Finally, the Approval Notice will advise Settlement Class Members that they may contact Co-Lead Counsel to obtain further information relating to the Settlement and the Claims Program.

**b) Approval Notice Program**

46. All elements of the Notice Program will seek to drive Settlement Class Members to the Settlement Website, which will continue to be a comprehensive source of information and updates related to the Settlement.

47. Within two weeks of the beginning of the Claims Program, JND will deliver the Approval Notices substantially in the form of Schedule "D" to the Settlement Agreement by email, in English and French, to:

- a) all Settlement Class Members for whom the Defendants provided a valid email address to JND;
- b) all Settlement Class Members who have contacted Plaintiffs' Counsel in the Action and Related Actions and provided a valid email address; and
- c) all Settlement Class Members who provide a valid email address through the Settlement Website.

48. The email Approval Notices will have unique URL links so that, based on URL click-throughs, JND will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. This information will be shared with the Parties so they can evaluate the effectiveness of the Approval Notice Program.

49. Within two weeks of the beginning of the Claims Program, JND will send Approval Notices via regular mail to:

- a) all Settlement Class Members for whom the Defendants provided a physical address to JND dating from 2020 or later and for whom no valid email address has been provided;
- b) all Settlement Class Members who provided a physical address to Plaintiffs' Counsel but did not provide a valid email address; and
- c) all Settlement Class Members who provided a physical address to JND through the Settlement Website but did not provide a valid email address.

50. For Settlement Class Members for whom Approval Notice mailed directly to a physical address is returned to JND as undeliverable, JND will attempt to update the Settlement Class Member's mailing address with advanced address research using skip trace databases or a comparable service and the National Change of Address database.

51. The Settlement Website will be updated to include the English and French versions of the Approval Notice.

52. The media outlets specified in the Notice Program have been carefully chosen to provide the best reach possible to the target population. While direct notification is the ideal form of notice, indirect notice through mass media can be an effective and necessary tool, particularly in the absence of complete contact information for all Settlement Class

Members. JND will twice publish in English and French, as applicable, the Publication Approval Notice in print and digital replica format in each of the following newspapers:

- a) *The Globe and Mail* (national edition);
- b) *The National Post* (national edition);
- c) *The Gazette* (Montréal);
- d) *La Presse+* (Montreal) (Digital Only);
- e) *Le Journal de Québec* (Quebec City); and
- f) *Toronto Star* (national)

The Publication Approval Notice is attached as **Exhibit “J”**.

53. Publications in the above newspapers will commence the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classified section, subject to any limitations by the newspapers on the placement of legal notices.

54. Internet advertisements will also be published on the Google Display Network and through social media ads on Facebook. These advertisements will directly link to the Settlement Website and will be displayed to a targeted Canadian audience to obtain an estimated 45 million impressions. These internet advertisements are attached as **Exhibit “K”**.

55. A press release, substantially in the form attached as Schedule “G” to the Settlement Agreement will be published, in English and French, using PR Newswire. It is estimated that the press releases will reach approximately 3,000 or more Canadian media outlets.



56. I believe that the Approval Notice Program will be at least as effective and efficient as the Certification Notice Program. Settlement Class Members have registered, and can continue to register, on the Settlement Website to receive information about the Settlement, and JND will send Approval Notices by regular mail to Settlement Class Members for whom only a physical address is available.

57. While it is not possible to provide a precise calculation of the reach of the Notice Program, I believe that the elements of the Notice Program will be effective at reaching a majority of the Settlement Class Members, while remaining as cost-effective as possible by utilizing media outlets and modalities with the best reach for the best price, covering all regions of the country.

## **V. CLAIM FORM**

58. Subject to the approval of the Courts, the Claim Form will be substantially in the form attached as Schedule “E” to the Settlement Agreement.

59. The Claim Form advises Settlement Class Members:

- a) of the eligibility criteria;
- b) that they can enter their vehicle’s Vehicle Identification Number (VIN) on the Settlement Website to confirm that it is a Subject Vehicle;
- c) how to complete and submit the Claim Form;
- d) that a separate Claim Form must be submitted for each Subject Vehicle the Settlement Class Member owned/leased;
- e) who currently own/lease the Subject Vehicle that they must have the Subject Vehicle repaired pursuant to the Recalls from an authorized GM dealer to be eligible to receive compensation;
- f) the Settlement Administrator may request additional documentation in the form of proof that the Settlement Class Member owned or leased the Subject Vehicles, and that the Settlement Class Member is not an Excluded Person; and

g) where they can obtain further information.

60. In summary, I believe that the proposed Notice and Claims Programs are not only cost-efficient but will also be effective means by which to provide Notice and effectively administer the Claims of the Settlement Class Members. It is my view as Court-appointed Settlement Administrator that the Approval Notices and Notice Program, as well as the Claims Program, serve as an effective and efficient means of advising Settlement Class Members of the Settlement, of the existence and content of the Claims Program, and their right to obtain compensation for the Defects in their Subject Vehicles.

61. I swear this affidavit in support of the Parties' motion for settlement approval and for no other or improper purpose.

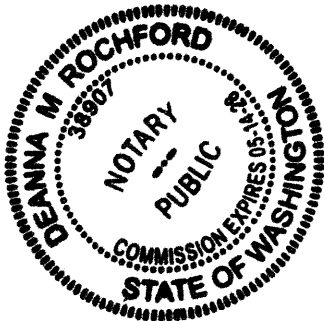
SWORN before me in the )  
City of Seattle, in the State of )  
Washington, this 24th day of )  
July, 2024 )

*Deanna M. Rochford* )

A Commissioner, etc.

*Jennifer M. Keough*

JENNIFER M. KEOUGH



OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF JENNIFER M. KEOUGH  
(sworn July 24, 2024)**

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*Lawyers for the Plaintiffs*



CANADA

SUPERIOR COURT  
(Class Action)

PROVINCE OF QUEBEC DISTRICT  
OF MONTREAL

N<sup>o</sup> : 500-06-000687-141

MICHAEL GAGNON

*Applicant*

-vs-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

CANADA

SUPERIOR COURT  
(Class Action)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup> : 500-06-000729-158

MICHAEL GAGNON

*Applicant*

-vs-

GENERAL MOTORS OF CANADA  
COMPANY

-AND-

GENERAL MOTORS LLC

*Defendants*

AFFIDAVIT OF JENNIFER KEOUGH  
(Consent Authorization and Notice Approval)  
(Sworn March 15, 2024)

I, **JENNIFER M. KEOUGH**, of the City of Seattle, in the State of Washington, United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Chief Executive Officer and Co-Founder of JND Legal Administration (“**JND**”), a legal management and settlement administration services firm that has been engaged by Settlement Class Representatives (who are Stacey Green and Michael Gagnon), Co-Lead Counsel (which are Rochon Genova LLP and Kim Spencer McPhee Barristers, P.C.), and GM (which are General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and General Motors LLC (“**New GM**”)), collectively the “**Parties**”, to serve as Settlement Administrator for the Settlement of this matter, subject to entry of the Certification Orders and other terms and conditions of the Settlement Agreement.<sup>1</sup> As such, I have direct knowledge of the matters to which I depose, except those that I state to be based on information and belief, in which case I identify the sources of my information and I believe such information to be true.

2. I have reviewed the following Schedules to the Parties’ Settlement Agreement: Short-Form Certification Notice (Schedule B), Long-Form Certification Notice (Schedule C), Approval Notice (Schedule D), Claim Form (Schedule E), Initial Press Release (Schedule F) and Reminder Press Release (Schedule G) (collectively, the “**Schedules**”). JND also reviewed drafts of these Schedules and provided input to the Parties prior to their finalizing the Schedules. I also have reviewed the initial Notice Program, which is attached hereto as **Exhibit “A”**. JND also reviewed drafts of the initial Notice Program, and provided input to the Parties prior to their finalizing the document. In addition, I have

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<sup>1</sup> In addition to the terms defined in this affidavit, other capitalized terms used herein and not defined have the meaning prescribed in the Settlement Agreement.

reviewed the Parties' Settlement Agreement. JND considered and provided feedback to the Parties on the Sections pertaining to the Settlement Administrator duties prior to agreeing to serve as Settlement Administrator, namely Sections 7 (Claims Program Process and Administration), 9 (Notice to the Class), and 10 (Settlement Class Members' Right to Opt Out and Object).

3. I have also reviewed the decision of the Honourable Justice Nollet dated March 4, 2023. Subsequently, revisions have been made to the Notice Program, the Short-Form Certification Notice, and the Long-Form Certification Notice, in accordance with the Honourable Justice Nollet's direction and advice, which JND has reviewed and provided input for. The revised Notice Program, along with a redline version which documents the changes made, is attached to my affidavit as **Exhibit "B"** (the "**Revised Notice Program**"). The revised Short-Form Certification Notice is attached to my affidavit as **Exhibit "C"** (the "**Revised Short-Form Certification Notice**"). The revised Long-Form Certification Notice, along with a redline version which documents the changes made, is attached to my affidavit as **Exhibit "D"** (the "**Revised Long-Form Certification Notice**").

4. Further, and also in accordance with the Honourable Justice Nollet's direction, Opt-Out and Objection Forms have been created, which are attached to my affidavit as **Exhibit "E"** and **Exhibit "F"**, respectively. As described below, two alternative versions of a Publication Certification Notice (Simplified Print Notice and Standard Print Notice) for use in print and digital versions of newspapers were also created, which are attached to my affidavit as **Exhibit "G"** and **Exhibit "H"**, respectively. Also as described below, digital

website/social media advertisements were also created, which are attached to my affidavit as **Exhibit “I”**.

5. I understand that this affidavit will be used in support of the Plaintiffs’ Motion for, among other things, entry of the Certification Order by the Superior Court of Québec.

6. In this affidavit, I explain the qualifications of JND to act as the Settlement Administrator for the Settlement, and I provide my opinion as to the efficacy of the Revised Notice Program.

## **EXPERTISE AND PROPOSED APPOINTMENT AS SETTLEMENT ADMINISTRATOR**

### **Background on JND**

7. JND is a legal administration services provider with its headquarters located in Seattle, Washington. JND has extensive experience with all aspects of legal administration and has administered settlements in hundreds of class action cases.

### **My expertise**

8. As CEO of JND, I am involved in all facets of our Company’s operations, including monitoring the implementation of our notice and claims administration programs. I have personally led the design and implementation of a substantial number of Canadian legal notification campaigns. Most recently, I designed the notice plans for the Loblaw Voluntary Remediation Card Program and the Settlement in *Kalra v. Mercedes-Benz Canada, Inc*, Case No. CV-16-550271-00CP (Ont. Super. Ct.). Additionally, JND manages numerous securities cases that involve communication and coordination with Canadian Class Members on a daily basis.



9. JND also acted as the administrator in respect of the U.S. economic loss class action settlement in: *In re: General Motors LLC Ignition Switch Litigation*, MDL No. 14-MD-2543 (JMF). As a result, we have direct experience with the same vehicle models and U.S. recalls parallel to the Canadian recalls which form the subject of this proceeding. In addition, JND has an Auto Solutions team with experience implementing notice programs and claims administration for over fifty other automotive class actions, including the Mercedes-Benz Emissions Litigation which had parallel U.S. and Canadian class actions. JND served as administrator for both the U.S. and Canadian settlements, among others.

10. I provide the details of JND's class action administration experience, including a list of class actions in which certification and/or settlement approval notice programs were deployed under my direction, in **Exhibit "B"** to my affidavit.

11. In forming the opinion expressed below, I draw from my class action administration experience, as well as my educational experience. I have a Master of Science degree (Finance specialization) from Seattle University, and a J.D. from Seattle University School of Law. I have more than 23 years of legal experience creating and supervising notice and claims administration programs and have personally overseen well over 500 matters. For more than seven (7) years, I have served as the Chief Executive Officer of JND, a company I co-founded in March of 2016.

## **THE NOTICE PROGRAM**

### **Class Member Data**

12. I have been advised by counsel for GM Canada and New GM that 1,219,809 unique Vehicle Identification Numbers (VIN's) have been identified as potential Subject Vehicles

under the Settlement. I have also been advised by counsel for GM Canada and New GM that approximately 114,900 valid e-mail addresses are available from GM for proposed Settlement Class Members, and that approximately 290,000 physical mailing addresses that were provided to GM since 2020 are available for proposed Settlement Class Members.

### **Efficacy of the Certification/Authorization Notice Program**

13. The elements of the proposed Revised Notice Program related to providing notice of the certification/authorization of the Actions, the terms of the proposed Settlement, and opt-out, objection, and intervention procedures to the proposed Settlement Class Members include:

- a) Providing direct notice of the certification/authorization of the Actions, through the Revised Short-Form Certification Notice, to approximately 114,900 Settlement Class Members with valid e-mail addresses plus Settlement Class Members whose email addresses have been collected by class counsel over the course of this litigation;
- b) Providing notice of the certification/authorization of the Actions to the public through the Revised Long-Form Certification Notice, which will be made available on the Settlement Website and hyperlinked in the emailed Revised Short-Form Certification Notice;
- c) Providing notice of the certification/authorization of the Actions to the public through an advertisement campaign in the print and digital versions of various

widely distributed Canadian newspapers using either a “Simplified Print Notice” or “Standard Print Notice”;

- d) Providing notice of the certification/authorization of the Actions to the public through an extensive digital advertisement campaign, which includes digital website advertisements via the Google Display Network and social media advertisements on Facebook over a 4-week duration; and
- e) Providing notice of the certification/authorization of the Actions to the public through a press release that will reach approximately 3,000 or more media outlets. (collectively, “**Certification/Authorization Notice**”).

14. A modified version of the Revised Short-Form Certification Notice, which will either be a “Simplified Print Notice” or “Standard Print Notice”, substantially in the form as attached to the Notice Program as Schedule A and also to my affidavit as **Exhibits “G” and “H”** and also shown below (“**Publication Certification Notice**”), will be published in the following newspapers, which combined have a daily circulation of 1.3 million copies: The Globe & Mail, The National Post, Toronto Star, The Montreal Gazette, La Presse+ and Le Journal de Québec.

15. The “Simplified Print Notice” is a summarized version of the notice that seeks to catch a reader’s attention with larger print, while providing a QR code linking the reader to the Settlement Website and the URL for further information, The Settlement Website will include the Revised Long-Form Certification Notice and Revised Short-Form Certification Notice. The digital versions will include a hyperlink to the Settlement Website

in addition to the QR code. The telephone number “[TFN]” for the Settlement Administrator is also provided:

LEGAL NOTICE

If You Owned or Leased a  
**GM Vehicle** that Was Subject  
to Certain **2014 Recalls**, You  
May Have Rights and Choices  
in a Proposed Settlement

<p style="text-align: center; font-weight: bold; margin-bottom: 10px;"><u>YOUR LEGAL RIGHTS AND OPTIONS</u></p> <p><b>Do Nothing</b></p> <ul style="list-style-type: none"> <li>▶ Submit a claim for benefits, if/after the Settlement is approved</li> <li>▶ Be bound by the Settlement, if approved</li> </ul> <p><b>Opt-Out from the Settlement by [date], 2024</b></p> <ul style="list-style-type: none"> <li>▶ Receive no payment, if/when the Settlement is approved</li> <li>▶ Keep your right to sue GM for economic loss</li> </ul> <p><b>Object to the Settlement by [date], 2024</b></p> <ul style="list-style-type: none"> <li>▶ You can only object if you do not opt-out of the Settlement</li> </ul>	<p><b>Attend the Approval Hearing</b></p> <ul style="list-style-type: none"> <li>▶ Before the Ontario Superior Court of Justice on [month/date], 2024</li> <li>▶ Before the Superior Court of Québec on [month/date], 2024</li> </ul> <p style="text-align: center; font-weight: bold; margin-top: 10px;"><u>LEARN MORE / REGISTER FOR UPDATES</u></p> <div style="text-align: center; margin: 10px 0;">  </div> <p style="text-align: center;">[settlement website]</p> <p style="text-align: center;">[TFN]</p> <p style="text-align: center;">Pour une notice en Français, visitez [settlement website]</p>
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16. The alternative “Standard Print Notice” is a more traditional notice that mirrors almost all of the content in the Short-Form Certification Notice:

LEGAL NOTICE

GM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic Settlement Information
If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.
Pour une notice en Français, visitez [settlement website].

The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights. You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the "Courts") have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC ("New GM") and General Motors of Canada Company (formerly General Motors of Canada Limited) ("GM Canada") (collectively, "GM") deny these allegations.

Who Is Included?

The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM's announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.

What Does the Settlement Provide?

If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible Settlement Class Members who file claims. Plaintiffs' counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These class claims have been discontinued from the class actions, but any such individual claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Option 1: Participate in the Settlement - Do nothing for now

If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

Option 2: Opt-out of the Settlement

You may opt-out of the Settlement, in which case you will not be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-

out form (see below) must be sent by [date], 2024. You may not opt-out and object.

IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.

Option 3: Object to the Settlement

If you do not opt-out and if you do not like the Settlement, you may object to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by [date], 2024.

Opt-Out Form, Objection Form and their submission

The opt-out form, objection form and further information are available at [settlement website]. Non-Quebec residents should send their opt-out form or objection form to the Settlement Administrator (see below). If you are a Quebec resident, your objection or opt-out form should be sent to the following address:

Clerk of the Superior Court of Quebec
Montréal Court house
Re: Michel Gagnon v.
General Motors of Canada et al.
500-06-000687-111 | 500-06-000729-158
1 Notre-Dame Street East, Room 1120
Montréal, Québec H2Y 1B5

Approval Hearings

The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs' counsel fees and expenses will take place before the Ontario Superior Court of Justice on [month/date], 2024 at [time] a.m. eastern time; and the Superior Court of Québec on [month/date], 2024 at [time] a.m. eastern time. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.

YOU MAY SEEK ADDITIONAL INFORMATION

Contact Class Counsel

Rochon Gepova LLP
Attention: Joan Sloan
jsloan@rochongenova.com
Tel: 1-866-881-2292 or local (416) 363-1867
Kim Spencer McPhee Barristers P.C.
Attention: Megan B. McPhee
mbm@mcspheelaw.ca
Tel: (416) 596-1414

Settlement Website

See [settlement website] for the Long-Form Notice, important documents and forms, answers to common questions and other detailed information to help you.

Settlement Administrator

The Settlement Administrator can be reached at [email/phone/address].

17. Based on our experience, we recommend that the “Simplified Print Notice” be utilized as the Publication Certification Notice as it captures the attention of readers and provides more effective notice to class members than the “Standard Print Notice.” It is our opinion, based on our experience, that such simplified notices lead to greater take-up rates in class action settlements. The “Simplified Notice” will also save about \$13,500 CAD in Administration Expenses, because the “Standard Print Notice” includes a greater amount of text which increases the cost of publication. The savings of \$13,500 will be available for distribution to Settlement Class Members.

18. The Revised Notice Program also includes digital website advertisements via the Google Display Network and on Facebook (**Exhibit “I”** to my affidavit). Facebook is recommended because the demographic of the proposed Settlement Class Members is expected to be older. The Google Display Network is the leading digital network comprised of over two million websites, videos and apps most likely visited by Canadians. Activity on Google Display Network will exclude certain GM-owned websites such as gm.ca, gm.com, chevrolet.com, chevrolet.ca, buick.com, buick.ca, gmc.com, gmccanada.ca, cadillac.com, cadillaccanada.ca, onstar.com, and onstar.ca. The digital advertisements on Google Display Network and Facebook will include a link to the Settlement Website for further information. It is estimated that these digital advertisements will generate 74 million impressions or “ad views.” Impressions or exposures are the total number of opportunities to be exposed to a media vehicle or combination of media vehicles containing a notice. Impressions are a gross or cumulative number that may include the same person more than once.

19. Finally, a press release announcing the certification/authorization of the Actions will be provided to over 3,000 Canadian media outlets via a press release service.

20. It is common to estimate the efficacy of a proposed notice program through its reach. Reach is the percentage of a specific population group exposed to a media vehicle or a combination of media vehicles containing a notice at least once over the course of a campaign. Reach factors out duplication, representing total unique persons. We estimate that the total reach of the Certification/Authorization Notice will be at least 70% of all Canadians 18 years of age or older.

21. The estimated cost for each element of the Certification/Authorization Notice is approximately:

- a) Settlement Website (including for use in the settlement approval and claims phases): \$21,070 CAD
- b) Settlement Phone Number (including for use in the settlement approval and claims phases): \$27,750 CAD
- c) Email Direct Notice: \$3,850 CAD
- d) Newspaper Notices (print and digital): \$33,770 CAD if Simplified Print Notice is used or \$47,000 CAD if the Court directs the Parties to use the Standard Print Notice
- e) Website/Social Media Advertisements (Google Display Network and Facebook): \$60,800 CAD

- f) Initial Press Release: \$2,700 CAD
- g) Total: \$149,940 CAD (assuming the lower cost Simplified Print Notice is used)

22. Based on my experience, the estimated total reach of the Certification/Authorization Notice, and the estimated cost associated with it, it is my belief that the Revised Notice Program represents effective, clear, cost-efficient and proportional notice, given the comments of Justice Nollet in his March 4, 2024 decision and the circumstances of this case.

#### **Notice Program Details**

23. As set out in the proposed Revised Notice Program, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- a) Posting English and French copies of the Settlement Agreement, as well as the Certification Notices and Approval Notice (when available), a proposed template of which is attached as Schedule D to the Settlement Agreement;
- b) A summary of the benefits available to Eligible Claimants under the Settlement;
- c) The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in



accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;

- d) A searchable VIN interface (i.e., the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- e) Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- f) Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and
- g) Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims.

24. As set out in the proposed Revised Notice Program, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Revised Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

25. As set out in the proposed Notice Program, the Certification/Authorization Notice will be disseminated as follows:

- a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Revised Short-Form Certification Notice by e-mail to:
  - i) all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
  - ii) to all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid e-mail address; and

the e-mails will contain hyperlinks to the Settlement Website, Revised Long-Form Certification Notice, Opt-Out Form, and Objection Form.

The Short-Form Certification Notice, in English and French, will be published as follows:

- b) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Publication Certification Notice in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail. The Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse+* which is only available in a digital format:

(i) <i>The Globe and Mail</i> (national edition)	(ii) <i>The National Post</i> (national edition)	(iii) <i>The Gazette</i> (Montréal)
(iv) <i>La Presse+</i> (Montréal) DIGITAL ONLY	(v) <i>Le Journal du Québec</i> (Québec City)	(vi) <i>Toronto Star</i> (national edition)

- i) The Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- c) If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Revised Short-Form Certification Notice and the Revised Long-Form Certification Notice on their own law firm websites.
- d) If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital website/social media advertisements via the Google Display Network and on Facebook, which shall be substantially in the form as attached to the Revised Notice Program as Schedule B and also to my affidavit as **Exhibit "I"**, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a Canadian audience with 74 million impressions estimated.

26. As set out in the proposed Notice Program, if the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, to be published in English and

French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.

27. It is my view that the Certification/Authorization Notice and Revised Notice Program serve as an effective and efficient means of bringing the Settlement terms, certification/authorization, and opt-out, objection and intervention options/procedures to the attention of Settlement Class Members through a variety of media outlets and are effective in conveying such information to the Settlement Class.

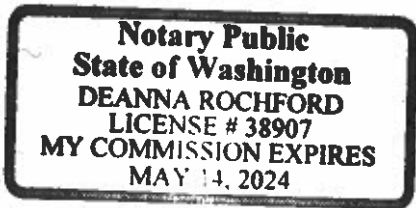
SWORN before me in the )  
City of Seattle, in the State of )  
Washington, this 15<sup>th</sup> day of )  
March, 2024 )

*Deanna Rochford*

*A Commissioner, etc.*

*Jennifer M. Keough*

JENNIFER M. KEOUGH



**EXHIBIT A – INITIAL NOTICE PROGRAM**

## GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT

### NOTICE PROGRAM

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

#### I. OVERVIEW

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print and digital media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available), proposed templates of which are attached as Schedules B, C and D to the Settlement Agreement;
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement; and

- Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:
  - (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
  - (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.
2. It is proposed that the Notices be issued as follows:
  - (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), a template of which is attached as Schedule C to the Settlement Agreement, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties. The Long-Form Certification Notice will contain the URL for the Settlement Website;

- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), a template of which is attached as Schedule B to the Settlement Agreement, providing a brief summary of the Settlement in a form and with content to be agreed upon by the Parties. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website;
  - (c) An Approval Notice, a template of which is attached as Schedule D to the Settlement Agreement, in a form and with content to be agreed upon by the Parties;
  - (d) A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“**Initial Press Release**”), a template of which is attached as Schedule F to the Settlement Agreement, in a form and with content to be agreed upon by the Parties, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
  - (e) A potentially modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, which will include the URL of the Settlement Website; and
  - (f) A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), a template of which is attached as Schedule G to the Settlement Agreement, in a form and with content to be agreed upon by the Parties, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.
3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

- 1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail to:



- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
- ii. to all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website where a copy of the Long-Form Notice will be available.

2. The Short-Form Certification Notice, in English and French, will be published as follows:

- (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Short-Form Certification Notice, the form and content of which shall be agreed to by the Parties, in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This Short-Form Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse* which is only available in a digital format:

- |   |   |  |
|---|---|--|
| (i) <i>The Globe and Mail</i><br>(national edition) | (ii) <i>The National Post</i><br>(national edition) | (iii) <i>The Gazette (Montréal)</i>            |
| (iv) <i>La Presse</i><br>(Montréal)<br>DIGITAL ONLY | (v) <i>Le Journal de Québec</i><br>(Québec City)    | (vi) <i>Toronto Star</i><br>(national edition) |

- (b) The Short-Form Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- (c) If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short-Form Certification Notice and Long-Form Certification Notice on their own law firm websites.

## **B. Approval Notice**

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:
  - (a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail to:

- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
- ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
- iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
  - i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph

III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.

2. The Approval Notice, in English and French, will be published as follows:

- (a) If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, a potentially modified version of the Approval Notice, the form and content of which shall be agreed by the Parties, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of *La Presse*. The Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers.
- (b) If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, a potentially modified version of the Approval Notice, the form and content of which shall be agreed by the Parties, in each of the magazines below (collectively, the “**Magazines**”). The Approval Notice will be published in the print editions of each of the Magazines, and will appear in the issue of each of the Magazines that is circulated immediately before or after the first day of the Claims Program, whichever is closest:

- |   |   |   |
|---|---|---|
| (i) <i>Reader's Digest</i><br>Canada (National) | (ii) <i>Toronto Life</i> (Toronto)                                  | (iii) <i>Best Health</i><br>Canada (National) |
| (iv) <i>Our Canada</i><br>(National)            | (v) <i>Sélection du Reader's</i><br><i>Digest</i> (National/French) |   |

3. Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

**C. Press Releases**

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, in a form and with content to be agreed upon by the Parties, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, in a form and with content to be agreed upon by the Parties, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

**EXHIBIT B1 – REVISED NOTICE PROGRAM**

## GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT

### NOTICE PROGRAM

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

#### I. OVERVIEW

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print digital and social media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available);
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and

- Contact information for the Settlement Administrator including the Settlement Phone Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:
  - (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
  - (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.
2. It is proposed that the Notices be issued as follows:
  - (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), the form and content of which shall be substantially in the form as attached to the Affidavit of Jennifer Keough, Sworn March 15, 2024 (“**JND Affidavit**”) as Exhibit D, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Long-Form Certification Notice will contain the URL for the Settlement Website;

- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), the form and content of which shall be substantially in the form as attached to the JND Affidavit as Exhibit C, providing a brief summary of the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and Long-Form Certification Notice;
- (c) A modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be substantially in the form of one of the two options (whichever one approved by the Courts) attached to the JND Affidavit as Exhibits G and H, and will include the URL of/hyperlink to the Settlement Website (“**Publication Certification Notice**”);
- (d) Digital internet advertisements directed to Canadian citizens via the Google Display Network with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (e) Social media advertisements via Facebook with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (f) A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“**Initial Press Release**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule F and as approved by the courts, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
- (g) A settlement approval notice (“**Approval Notice**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule D, and will be approved by the Courts at the Settlement Approval Hearings;
- (h) A modified version of the Approval Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, and will include the URL of the Settlement Website (“**Publication Approval Notice**”);
- (i) Digital internet advertisements directed to Canadian citizens via the Google Display Network including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the Settlement Approval Hearings;
- (j) Social media advertisements via Facebook including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the



Settlement Approval Hearings;

- (k) A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), which shall be substantially in the form attached to the Settlement Agreement as Schedule G and will be approved by the Courts at the Settlement Approval Hearings, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.
3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail, in English and French, to:
    - i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
    - ii. to all Settlement Class Members who have contacted plaintiffs’ counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and the Long-Form Certification Notice.

2. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the Publication Certification Notice, in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse+* which is only available in a digital format:

- |  |   |  |
|--|---|--|
| (i) <i>The Globe and Mail</i><br>(national edition)  | (ii) <i>The National Post</i><br>(national edition) | (iii) <i>The Gazette</i> (Montréal)            |
| (iv) <i>La Presse+</i><br>(Montréal)<br>DIGITAL ONLY | (v) <i>Le Journal de Québec</i><br>(Québec City)    | (vi) <i>Toronto Star</i><br>(national edition) |

- (a) The Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers. In the digital editions, the Publication Certification Notice will contain a hyperlink to the Settlement Website.
3. If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short-Form Certification Notice and Long-Form Certification Notice on their own law firm websites.
4. If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital internet advertisements on the Google Display Network, and social media advertisements on Facebook, which shall be substantially in the form as attached to the JND Affidavit as Exhibit I, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with over 70 million impressions estimated.

## **B. Approval Notice**

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:
- (a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail, in English and French, to:
- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
  - ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
  - iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the

Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
- i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.

2. If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, the Publication Approval Notice, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of *La Presse+*. The Publication Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal

notices by the Newspapers.

3. If and when the Courts approve the Settlement, the Settlement Administrator will arrange for the publication of internet advertisements on the Google Display Network and social media advertisements on Facebook, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with 45 million impressions estimated.

Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

### **C. Press Releases**

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, which shall be substantially in the form attached to the Settlement Agreement as Schedule F, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, which shall be substantially in the form attached to the Settlement Agreement as Schedule G, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

**EXHIBIT B2 – REVISED NOTICE PROGRAM [REDLINE]**

## GM IGNITION SWITCH, KEY ROTATION, CAMARO KNEE-KEY & ELECTRIC POWER STEERING ECONOMIC SETTLEMENT

### NOTICE PROGRAM

The following is the Notice Program developed to provide notice and information about: (i) the terms and benefits of a proposed settlement of claims relating to certain GM vehicles that were recalled in 2014 in proposed class actions, *Oberski et al v. General Motors LLC et al* (Ontario Superior Court of Justice Action No. CV-14-502023-CP), *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000687-141) and *Gagnon v. General Motors of Canada et al* (Superior Court of Québec Action No. 500-06-000729-158) (collectively, the “**Actions**”) and 12 other Related Actions (the “**Settlement**”); and (2) how Settlement Class Members may participate in, object to, or opt out of the Settlement. Unless otherwise provided, capitalized terms herein have the same meaning as set forth in the Settlement Agreement.

#### I. OVERVIEW

General Motors LLC (“**New GM**”), General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) and Co-Lead Counsel, on behalf of the Settlement Class Representatives (collectively, the “**Parties**”), seek to provide notice of the Settlement consistent with the terms of section 9 of the Settlement Agreement, and as approved by the Courts. To this end, the Notice Program proposes to provide English and French direct notice to Settlement Class Members where available, as well as general notice through print ~~and~~ digital and social media (collectively, the “**Notices**”).

In addition, a Settlement Website will be established and ready to be made available to Settlement Class Members as soon as practicable after the entry of the Certification Orders. Initially, the functionality of the Settlement Website will include, but not be limited to:

- Posting English and French copies of the Settlement Agreement, as well as the Certification Notice and Approval Notice (when available), ~~proposed templates of which are attached as Schedules B, C and D to the Settlement Agreement;~~
- A summary of the benefits available to Eligible Claimants under the Settlement;
- The ability for Settlement Class Members to sign up on the Settlement Website to receive updates about the Settlement by inputting their contact information and contact preferences, which information will be stored in accordance with a posted privacy policy and the privacy protections in the Settlement Agreement;
- A searchable VIN interface (*i.e.*, the VIN Look-Up) to identify Subject Vehicles included within the scope of the Settlement Agreement;
- Information on key dates such as the Opt-Out Deadline, the Objection Deadline, and the dates of the Settlement Approval Hearings;
- Information on the procedure for opting out of, or objecting to, the Settlement, including copies of the Opt-Out Form and the Objection Form; and
- Contact information for the Settlement Administrator including the Settlement Phone

Number.

If the Settlement is approved by the Courts, the Claims Program will begin as soon as reasonably practicable after the Effective Date of the Settlement Agreement. The Settlement Website will then have additional functionality to facilitate the submission of Claims. Settlement Class Members who have not opted out of the Settlement will be able to electronically submit their Claim through the Settlement Website.

The Settlement Website will also contain information on the settlement and claims process (e.g., FAQs), which will be modified from time to time as necessary to reflect questions from Settlement Class Members, address any common misunderstandings and provide updated information about the Claims Program.

Counsel for the plaintiffs in the Actions and Related Actions will post the Notices and refer to the Settlement Website on their own websites.

Also, a Settlement Phone Number will be established as soon as practicable after the entry of the Certification Orders which will be a toll-free phone number that Settlement Class Members can call to receive information in English and French about (among other things), the Settlement Agreement, obtaining the Long-Form Certification Notice, the Objection Deadline, the Opt-Out Deadline, the dates of the Approval Hearings, and how to submit a Claim. The information accessible through the Settlement Phone Number, and the format by which it is presented, shall be agreed to by the Parties in writing with the Settlement Administrator prior to the establishment of the Settlement Phone Number.

## II. THE NOTICES

1. The proposed Notices are as follows:

- (a) the Certification Notice, which will provide information about the Settlement and its benefits, the dates of the Settlement Approval Hearings; and the procedures for objecting to and opting out of the Settlement; and
- (b) the Approval Notice, which will provide notice that the Courts have approved the Settlement, information about when and how to participate in the Claims Program, and the Claims Deadline.

2. It is proposed that the Notices be issued as follows:

- (a) A long-form Certification Notice (“**Long-Form Certification Notice**”), ~~a template~~ the form and content of which ~~is~~ shall be substantially in the form as attached ~~as Schedule C~~ to the Settlement Agreement Affidavit of Jennifer Keough, Sworn March 15, 2024 (“JND Affidavit”) as Exhibit D, providing detailed information about the Settlement in a form and with content to be agreed upon by the Parties and approved by the Courts. The Long-Form Certification Notice will contain the URL for the Settlement Website;
- (b) A short-form Certification Notice (“**Short-Form Certification Notice**”), ~~a template~~ the form and content of which ~~is~~ shall be substantially in the form as attached ~~as Schedule B~~ to the Settlement Agreement JND Affidavit as Exhibit C, providing a brief summary of the Settlement in a form and with content to be

agreed upon by the Parties and approved by the Courts. The Short-Form Certification Notice will contain the URL for the Settlement Website where a copy of the Long-Form Certification Notice will be available. Where e-mailed to Settlement Class Members, the Short-Form Certification Notice will include a hyperlink to the Settlement Website, Opt-Out Form, Objection Form and Long-Form Certification Notice;

- (c) ~~An Approval Notice, a template of which is attached as Schedule D~~ A modified version of the Short-Form Certification Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be substantially in the form of one of the two options (whichever one approved by the Courts) attached to the JND Affidavit as Exhibits G and H, and will include the URL of/hyperlink to the Settlement Website (“Publication Certification Notice”);
- (d) Digital internet advertisements directed to Canadian citizens via the Google Display Network with a “Learn More” hyperlink to the Settlement Website, in a form and with content substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (e) Social media advertisements via Facebook with a “Learn More” hyperlink to the Settlement Agreement Website, in a form and with content to be agreed upon by the Parties substantially in the form as attached to JND Affidavit as Exhibit I and as approved by the Courts;
- (f) ~~(d)~~ A press release to be issued by the Settlement Administrator as soon as practicable after the entry of the Certification Orders (“Initial Press Release”), a template of which is shall be substantially in the form attached as Schedule F to the Settlement Agreement, in a form and with content to be agreed upon as Schedule F and as approved by the Parties courts, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement;
- (g) ~~(e)~~ A potentially A settlement approval notice (“Approval Notice”), which shall be substantially in the form attached to the Settlement Agreement as Schedule D, and will be approved by the Courts at the Settlement Approval Hearings;
- (h) A modified version of the Short-Form-Certification Approval Notice to be published in the print and digital replica editions of the newspapers, the form and content of which shall be approved by the Courts at the Settlement Approval Hearings, and will include the URL of the Settlement Website (“Publication Approval Notice”); and
- (i) Digital internet advertisements directed to Canadian citizens via the Google Display Network including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the Settlement Approval Hearings;
- (j) Social media advertisements via Facebook including a link to the Settlement Website, in a form and with content which shall be approved by the Courts at the



Settlement Approval Hearings;

(k) ~~(f)~~ A reminder press release to be issued by the Settlement Administrator after the entry of the Approval Orders (“**Reminder Press Release**”), ~~a template of which is~~ shall be substantially in the form attached ~~as Schedule G~~ to the Settlement Agreement, ~~in a form as Schedule G~~ and ~~with content to~~ will be agreed upon ~~approved~~ by the ~~Parties~~ Courts at the Settlement Approval Hearings, to be published on a press release service as agreed to by the Parties, in accordance with section 8.3 of the Settlement Agreement.

3. During the Claims Program, up through the Claims Deadline, the Parties will consider whether additional notice is necessary based on (i) the Parties’ evaluation of the effectiveness of the Notice Program, (ii) the number of Settlement Class Members who have registered their contact information with the Settlement Administrator, and (iii) the number of Claims submitted. Any such additional notice shall be agreed to in writing by the Parties.

### III. THE NOTICE PROGRAM

The dissemination and timing of each of the Notices is described below.

#### A. Certification Notice

The Parties propose that the Certification Notice be distributed in the following manner:

1. The Settlement Class Information provided by the Parties to the Settlement Administrator will be used to provide direct notice. To this end:
  - (a) If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, deliver the Short-Form Certification Notice by e-mail, in English and French, to:
    - i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address; and
    - ii. to all Settlement Class Members who have contacted plaintiffs’ counsel in the Actions and Related Actions and who have provided a valid e-mail address; and

the e-mails will contain a hyperlink to the Settlement Website ~~where a copy of~~ Opt-Out Form, Objection Form and the Long-Form ~~Notice will be available.~~ 2. The Short-Form Certification Notice, in English and French, will be published as follows:

2. ~~(a)~~ If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable, publish the ~~Short-Form~~ Publication Certification Notice, ~~the form and content of which shall be agreed to by the Parties~~, in the newspapers below (collectively, the “**Newspapers**”) in either English or French, as applicable, to supplement the direct notice being provided by e-mail and mail. This ~~Short-Form~~ Publication Certification Notice will be published once in both the print and digital replica editions of each of the Newspapers, with the exception of *La Presse* + which is only available in a digital format:

Mail: ~~(ii)~~ ~~(iii)~~ *The National Post* (national edition) ~~(iii)~~ ~~(iii)~~ *The Gazette* (Montréal)

(iv) *La Presse+* (Montréal) DIGITAL ONLY (v) *Le Journal de Québec* (Québec City) (vi) *Toronto Star* (national edition)

(a) ~~(b)~~ The ~~Short-Form~~ Publication Certification Notice will appear in the Newspapers on a date to be agreed to by the Parties in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the Newspapers. In the digital editions, the Publication Certification Notice will contain a hyperlink to the Settlement Website.

3. ~~(e)~~ If the Courts grant the Certification Orders, as soon as reasonably practicable, counsel for the plaintiffs in the Actions and Related Actions will post the Short- Form Certification Notice and Long-Form Certification Notice on their own law firm websites.

4. If the Courts grant the Certification Orders, the Settlement Administrator will arrange for the publication of digital internet advertisements on the Google Display Network, and social media advertisements on Facebook, which shall be substantially in the form as attached to the JND Affidavit as Exhibit I, in either English or French, depending on the website's language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with over 70 million impressions estimated.

## **B. Approval Notice**

1. If and when the Courts approve the Settlement, the Approval Notice will be distributed in the following manner:

(a) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will deliver the Approval Notice by e-mail, in English and French, to:

- i. all Settlement Class Members for whom New GM or GM Canada provided a valid e-mail address to the Settlement Administrator;
- ii. all Settlement Class Members who have contacted counsel for the plaintiffs in the Actions and Related Actions and provided a valid e-mail address; and
- iii. all Settlement Class Members who provide a valid e-mail address through the Settlement Website.

The e-mails will contain a hyperlink to the Settlement Website and will be sent with a URL unique to each recipient so that, based on URL click-throughs, the

Settlement Administrator will have an automated record of receipt and of Settlement Class Members visiting the Settlement Website. The confirmation of delivery data will be shared by the Settlement Administrator with the Parties to allow them to evaluate the ongoing effectiveness of the Notice Program.

- (b) Within two weeks of the beginning of the Claims Program, the Settlement Administrator will send by regular mail the Approval Notice to:
- i. all Settlement Class Members for whom New GM or GM Canada has provided a physical address dating from 2020 or later to the Settlement Administrator, but for whom no valid e-mail address has been provided by the Settlement Class Member to New GM or GM Canada, or to the Settlement Administrator via the Settlement Website (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - ii. all Settlement Class Members who have contacted plaintiffs' counsel in the Actions and Related Actions and provided a valid mailing address, but not a valid e-mail address (including e-mail addresses determined to be invalid by the e-mailed Short-Form Certification Notice bouncing back to the Settlement Administrator);
  - iii. all Settlement Class Members who provide their mailing address through the Settlement Website and fail to provide a valid e-mail address; and
  - iv. for Settlement Class Members for whom the Approval Notice is returned to sender, the Settlement Class Administrator will attempt to update the Settlement Class Member's mailing address with advanced research using skip trace databases or a comparable service and the National Change of Address ("NCOA") database.
- (c) Within two weeks after the e-mail distribution set out in paragraph III.B.1(a), the Approval Notice, as well as a cover letter approved by the Parties and advising that no further written communications will be mailed to Settlement Class Members unless they fail to provide a valid e-mail address to the Settlement Administrator, will be mailed via regular mail by the Settlement Administrator to all Settlement Class Member e-mail recipients from whom the e-mail sent pursuant to paragraph III.B.1(a) bounced back and for whom the Parties or the Settlement Administrator have a valid mailing address.

~~2. The Approval Notice, in English and French, will be published as follows:~~

2. ~~(a)~~ If and when the Courts approve the Settlement, the Settlement Administrator will publish, in English or French, as applicable, ~~a potentially modified version of the~~ Publication Approval Notice, the form and content of which shall be ~~agreed~~ approved by the ~~Parties~~ Courts at the Settlement Approval Hearings, twice in both the print and digital replica format in each of the five Newspapers, and twice in the digital edition of La Presse+. The Publication Approval Notice will launch the first week of the Claims Program and appear on the best circulating day and in an area of high visibility and not within the classifieds section, if such placement is permitted for legal notices by the

Newspapers.

3. ~~(b)~~ If and when the Courts approve the Settlement, the Settlement Administrator will ~~publish, in English or French, as applicable, a potentially modified version of the Approval Notice~~ arrange for the publication of internet advertisements on the Google Display Network and social media advertisements on Facebook, the form and content of which shall be ~~agreed~~ approved by the Parties, ~~in each of the magazines below (collectively, the “Magazines”). The Approval Notice will be published in the print editions of each of the Magazines, and will appear in the issue of each of the Magazines that is circulated immediately before or after the first day of the Claims Program, whichever is closest:~~

- ~~(i) Reader’s Digest Canada (National)~~  
~~(ii) Toronto Life (Toronto) — (iii) Best Health~~  
~~Canada (National)~~

- ~~(iv) Our Canada~~  
~~(National)~~  
~~(v) — lection du Reader’s Digest (National/French)~~ Courts at the Settlement Approval Hearings, in either English or French, depending on the website’s language. These advertisements will directly link to the settlement website for further information and will be displayed to a targeted Canadian audience with 45 million impressions estimated.


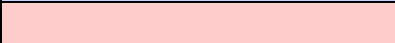
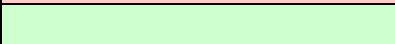
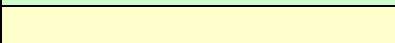

3. Within one week of the entry of the Approval Orders, counsel for the plaintiffs in the Actions and Related Actions will post the Approval Notice on their own websites.

### C. Press Releases

1. If the Courts grant the Certification Orders, the Settlement Administrator will, as soon as reasonably practicable after entry of the Certification Orders, distribute the Initial Press Release, which shall be substantially in the form and with content attached to be agreed upon by the Parties Settlement Agreement as Schedule F, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide information about the proposed Settlement and its benefits, the dates of the Settlement Approval Hearings, the URL for the Settlement Website, and the procedures for objecting to and opting out of the Settlement.
2. If the Courts approve the Settlement, the Settlement Administrator will, at an appropriate date before the Claims Deadline, agreed by the Parties, distribute the Reminder Press Release, which shall be substantially in the form and with content attached to be agreed upon by the Parties Settlement Agreement as Schedule G, to be published in English and French on a press release service as agreed to by the Parties that will reach approximately 3,000 or more Canadian media outlets. This press release will provide notice regarding the Courts' approval of the Settlement, the URL of the Settlement Website, information about when and how to participate in the Claims Program, and the Claims Deadline.

Document comparison by Workshare Compare on March 18, 2024 9:50:40 AM

Input:	
Document 1 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/GM Gagnon/Exhibits - JND Affidavit/Up to date JND Exhibits/A - Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement.pdf
Description	A - Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement
Document 2 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/GM Gagnon/Exhibits - JND Affidavit/Up to date JND Exhibits/B1A - Revised Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement.pdf
Description	B1A - Revised Notice Program - GM Ignition Switch, Key Rotation, Electric Power Steering Economic Settlement
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
	<u>Moved to</u>
	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	88
Deletions	75
Moved from	1

Moved to	1
Style changes	0
Format changes	0
Total changes	165

**EXHIBIT C1 – REVISED SHORT-FORM CERTIFICATION NOTICE [ENG]**



## Schedule “B” – Short-Form Certification Notice

NOTICE OF CANADIAN CLASS ACTIONS CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARINGGM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering  
Economic Settlement InformationIf You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.

*Pour une notice en Français, visitez [settlement website].*

The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights. You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) (collectively, “GM”) deny these allegations.

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>Who Is Included?</b>	The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.
<b>What Does the Settlement Provide?</b>	If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible settlement class members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These <i>class</i> claims have been discontinued from the class actions, but any such <i>individual</i> claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.
<b>Option 1: Participate in the Settlement – Do nothing for now</b>	If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.
<b>Option 2: Opt out of the Settlement</b>	You may <b>opt-out</b> of the Settlement, in which case you will <u>not</u> be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual

## Schedule “B” – Short-Form Certification Notice

	<p>lawsuits. Your <a href="#">opt-out form</a> (see below) must be sent by <b>[date]</b>, 2024. You may not opt out and object.</p> <p><b>IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.</b></p>		
<b>Option 3: Object to the Settlement</b>	<p>If you do not opt-out and if you do not like the settlement, you may <b>object</b> to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your <a href="#">objection form</a> (see below) must be sent by <b>[date]</b>, 2024.</p>		
<b>Opt-Out Form, Objection Form and their submission</b>	<p>The <a href="#">opt-out form</a>, <a href="#">objection form</a> and further information are available at <b>[settlement website]</b>. <u>Non-Quebec residents</u> should send their opt-out form or objection form to the Settlement Administrator (see below). <u>If you are a Quebec resident</u>, your objection or opt-out form should be sent to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Quebec Montréal Court house Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i> 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>		
<b>Approval Hearings</b>	<p>The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs’ counsel fees and expenses will take place before the Ontario Superior Court of Justice on <b>[month/date]</b>, 2024 at <b>[time]</b> a.m. eastern time; and the Superior Court of Québec on <b>[month/date]</b>, 2024 at <b>[time]</b> a.m. eastern time. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claims deadline.</p> <p>You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.</p>		
<b>YOU MAY SEEK ADDITIONAL INFORMATION</b>			
<b>Contact Class Counsel</b>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> <p>Rochon Genova LLP Attention: Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867</p> </td> <td style="width: 50%;"> <p>Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414</p> </td> </tr> </table>	<p>Rochon Genova LLP Attention: Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414</p>
<p>Rochon Genova LLP Attention: Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867</p>	<p>Kim Spencer McPhee Barristers P.C. Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414</p>		
<b>Settlement Website</b>	<p>See <b>[settlement website]</b> for the <a href="#">Long-Form Notice</a>, important documents and forms, answers to common questions and other detailed information to help you.</p>		
<b>Settlement Administrator</b>	<p>The Settlement Administrator can be reached at <b>[email/phone]</b>.</p>		

**EXHIBIT C2 – REVISED SHORT-FORM CERTIFICATION NOTICE [FR]**

## Annexe « B » - Avis de certification abrégé

AVIS DE CERTIFICATION/AUTORISATION D'ACTIONS COLLECTIVES CANADIENNES ET  
D'AUDIENCE D'APPROBATION DU RÈGLEMENTInterrupteurs à clé de contact GM, rotation de la clé, Camaro clé-genou et direction assistée  
électrique

## Informations sur le règlement des pertes pécuniaires

**Si vous avez possédé ou loué un véhicule GM visé par certains rappels en 2014, vous pouvez bénéficier de droits et d'options dans le cadre du Règlement proposé.**

*For the English Notice, please visit [insert website].*

**Le présent avis a pour objet de vous informer de la certification/autorisation des actions collectives, du règlement proposé et de vos droits légaux.** Cet avis vous a été envoyé parce que vous êtes peut-être Membre du Groupe du Règlement

La Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec (les « Cours ») ont certifié/autorisé, à des fins de règlement, des actions collectives visant à obtenir une indemnisation pour les pertes pécuniaires subies par les propriétaires ou locataires actuels et passés de certains véhicules GM rappelés en 2014 (le « Règlement »). Les rappels concernaient les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les Cours examineront le règlement des actions collectives proposé à l'échelle nationale lors des audiences à venir. Les rappels concernent les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les représentants des actions collectives allèguent que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué ces véhicules. General Motors LLC (« New GM ») et General Motors du Canada Company (anciennement General Motors du Canada Limitée) (« GM Canada ») (collectivement, « GM ») nient ces allégations.

## VOS DROITS ET OPTIONS DANS LE CADRE DE CE RÈGLEMENT

<b>Qui est inclus ?</b>	Le Groupe de Règlement proposé, qui a été certifiée ou autorisée par les Cours à des fins de règlement seulement, comprend (paraphrasée) toutes les personnes résidant au Canada (individus, entreprises et organisations) qui, à tout moment le jour de ou avant l'annonce par GM de certains rappels 2014, ont possédé, acheté et/ou loué un véhicule soumis à l'un des rappels dans l'une des provinces/territoires du Canada. Les entreprises de location quotidienne, les entités gouvernementales et certaines autres personnes ne sont pas incluses. Rendez-vous sur le [site Web du règlement] ou appelez [numéro de téléphone établi par l'administrateur du règlement] pour voir si votre véhicule GM est visé par le règlement.
<b>Que prévoit le Règlement ?</b>	S'il est approuvé, un fonds de Règlement de 12 millions de dollars canadiens sera créé. Les montants versés aux membres éligibles du Groupe de Règlement varieront en fonction des rappels qui s'appliquent à leurs véhicules, du montant des frais administratifs et du nombre de membres éligible du Groupe du Règlement qui déposeront des réclamations. Les honoraires et autres frais des avocats des demandeurs seront payés séparément par GM et ne seront pas déduits du fonds de règlement. Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour des dommages corporels (et réclamations connexes de la famille/des personnes à charge), une mort injustifiée ou des dommages matériels réels liées aux rappels de 2014. Ces réclamations de <i>groupe</i> ont fait l'objet d'un désistement dans les actions collectives, peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations <i>individuelles</i> ne seront pas renoncées ou quittancées par l'approbation du Règlement.
<b>Option 1 : Participer au</b>	Si vous êtes satisfait du Règlement, vous n'avez rien à faire pour l'instant. Vous pourrez présenter une réclamation pour compensations admissibles si le Règlement est approuvé. Vous pouvez

## Annexe « B » - Avis de certification abrégé

<b>règlement - Ne rien faire pour l'instant</b>	enregistrer votre adresse courriel ou postale sur le Site Web du règlement pour vous assurer de recevoir un avis d'approbation du tribunal et la date limite de présentation des demandes.	
<b>Option 2 : s'exclure du Règlement</b>	<p>Vous pouvez vous <b>exclure</b> du règlement, auquel cas vous <b>ne serez pas</b> admissible à des prestations. Vous vous prévaloir de cette mesure si vous souhaitez vous exclure et préserver votre droit individuel de poursuivre GM pour perte économique. Demandez conseil à votre avocat au sujet des délais légaux pour les poursuites individuelles. Votre <a href="#">formulaire d'exclusion</a> (voir ci-dessous) doit être envoyé avant le <b>[date], 2024</b>. Vous ne pouvez pas vous désinscrire <i>et</i> vous opposer.</p> <p><b>SI VOUS NE VOUS EXCLUEZ PAS ET QUE LE RÈGLEMENT EST APPROUVÉ, VOUS SEREZ LIÉ PAR LA QUITTANCE, LA RENONCIATION ET L'ENGAGEMENT DE NE PAS POURSUIVRE.</b></p>	
<b>Option 3 : s'opposer au Règlement</b>	Si vous ne vous excluez pas et si vous vous êtes en désaccord avec le Règlement, vous pouvez vous <b>opposer</b> au règlement avant que les Cours n'examinent s'il doit être approuvé et, si vous le souhaitez, assister à une audience d'approbation. Votre <a href="#">formulaire d'objection</a> (voir ci-dessous) doit être envoyé avant le <b>[date] 2024</b> .	
<b>Formulaire d'exclusion, formulaire d'opposition et leur soumission</b>	<p>Le <a href="#">formulaire d'exclusion</a>, le <a href="#">formulaire d'objection</a> et d'autres informations sont disponibles au <a href="#">site Web de règlement</a>. Les non-résidents du Québec doivent envoyer leur formulaire d'exclusion ou d'objection à l'Administrateur du règlement (voir ci-dessous). Si vous résidez au Québec, votre formulaire d'exclusion ou d'objection doit être envoyé à l'adresse suivante:</p> <p style="text-align: center;">Greffier de la Cour supérieure du Québec Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors du Canada et al.</i> 500-06-000687-141   500-06-000729-158 1, rue Notre-Dame Est, salle 1.120 Montréal (Québec) H2Y 1B5</p>	
<b>Audiences d'approbation</b>	<p>Le Règlement doit être approuvé par les Cours pour entrer en vigueur. Les audiences visant à déterminer s'il y a lieu d'approuver le règlement et, éventuellement, les honoraires et les frais d'avocat des demandeurs auront lieu devant la Cour supérieure de justice de l'Ontario le <b>[mois/date] 2024</b> à <b>[heure]</b>, heure de l'Est, et devant la Cour supérieure du Québec le <b>[mois/date] 2024</b> à <b>[heure]</b>, heure de l'Est. Vous pouvez enregistrer votre adresse courriel ou postale sur le Site Web du Règlement pour vous assurer de recevoir l'avis d'approbation du tribunal et la date limite de présentation des réclamations.</p> <p>Vous pouvez comparaître aux audiences d'approbation, soit personnellement, soit par l'entremise d'un avocat que vous avez mandaté, mais vous n'êtes pas tenu de le faire.</p>	
<b>VOUS POUVEZ DEMANDER DES INFORMATIONS SUPPLÉMENTAIRES</b>		
<b>Communiquer avec l'avocat du groupe</b>	Rochon Genova LLP À l'attention de Joan Sloan <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel : 1-866-881-2292 ou local (416) 363-1867	Kim Spencer McPhee Barristers C.P. À l'attention de Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Téléphone : (416) 596-1414
<b>Site Web du règlement</b>	Consultez le <a href="#">site Web de règlement</a> pour accéder à l' <a href="#">avis de certification/autorisation long</a> , les documents et formulaires importants, les réponses aux questions fréquentes et d'autres renseignements détaillés pour vous aider.	
<b>Administrateur de règlement</b>	Vous pouvez contacter l'Administrateur du règlement à l'adresse <a href="#">[email/téléphone]</a> .	

**EXHIBIT D1 - REVISED LONG-FORM CERTIFICATION NOTICE [ENG]**

## Schedule “C” – Long-Form Certification Notice

Ontario Superior Court of Justice / Superior Court of Québec

**NOTICE OF CLASS ACTION CERTIFICATION/AUTHORIZATION AND  
SETTLEMENT APPROVAL HEARING**

**If You Are a Current or Former Owner or Lessee of a GM  
Vehicle that was Subject to Certain 2014 Recalls, You May Have  
Rights and Choices in a Proposed Settlement.**

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below),  
your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you that the Ontario Superior Court of Justice and the Superior Court of Québec (the “**Courts**”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current and former owners or lessees of certain GM vehicles that were recalled in 2014 (the “**Settlement**”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“**New GM**”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“**GM Canada**”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.
- The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment

**Schedule “C” – Long-Form Certification Notice**

amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.

- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and for [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec. These hearings are public. You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• <b><u>The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.</u></b></li> <li>• At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending. If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member will have to complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</li> <li>• Settlement Class Members will be able to complete their claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at [settlement website].</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<b>Exclude Yourself or “Opt Out”</b>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at their own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.</li> </ul>



## Schedule “C” – Long-Form Certification Notice

	<ul style="list-style-type: none"> <li>Your request to opt out must be received by [date], 2024. Non-Quebec residents may send their opt out request to the Settlement Administrator. Quebec residents should send their opt out request to the following address:  Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</li> <li>More information about how to opt out of the Settlement can be found in paragraph 8 below and at [settlement website]. An opt-out form is available on this website.</li> </ul>
<b>Object</b>	<ul style="list-style-type: none"> <li>Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by [date], 2024. Non-Quebec residents should send their objections to the Settlement Administrator. Quebec residents should send their objections to the following address:  Clerk of the Superior Court of Quebec  Montréal Court house  Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>  500-06-000687-141   500-06-000729-158  1, Notre-Dame Street East, Room 1.120  Montréal, Québec H2Y 1B5.</li> <li>Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be bound by any Court-approved Settlement even though they objected to it.</li> <li>More information about how to object can be found in paragraph 10 below and at [settlement website]. An objection form is available on this website.</li> </ul>
<b>Go to the Hearing</b>	<ul style="list-style-type: none"> <li>To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and on [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec.</li> <li>The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings if they choose to do so (not required).</li> </ul>
<b>Do Nothing</b>	<ul style="list-style-type: none"> <li>Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li> <li>Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New</li> </ul>

**Schedule “C” – Long-Form Certification Notice**

	GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.
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## Schedule “C” – Long-Form Certification Notice

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## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes. It also provides information about the Settlement, which pertains to all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the

Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (**VINs**) provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2006-2010 Pontiac Solstice	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal	14172	2014-273	November 30, 2014
	2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX	14497		
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14299	2014-246	

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR	14115	2014-104	February 28, 2015
	2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx	14116		
	2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14117		
	2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [\[settlement website\]](#) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [\[settlement website\]](#) or call [\[phone number established by Settlement Administrator\]](#), to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with

multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

**CONDEMN** Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

**CONDEMN** Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

### **C. THE TERMS OF THE SETTLEMENT AGREEMENT**

#### **4. What am I giving up under the Settlement Agreement?**

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “**Released Parties**”).

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These *class* claims have been discontinued from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such *individual* claims will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [[settlement website](#)].

The Settlement Agreement describes the Released Claims in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## 5. What might I be receiving under the Settlement Agreement?

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### i. The Settlement Fund Amount

In exchange for Settlement Class Members' release of the Released Claims, there will be a CA\$12 million settlement fund established (the "**Settlement Fund Amount**"). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### ii. How will payments for eligible claims be allocated?

A "Net Settlement Amount" shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### iii. How do I get a payment from the Net Settlement Amount?

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [settlement website] or by mail to [Settlement Administrator's address]. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION



## 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“**Co-Lead Counsel**”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP  Attention: Joan Sloan  jsloan@rochongenova.com  Tel: 1-866-881-2292 or local (416) 363-1867  121 Richmond Street West  Suite #900  Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee  mbm@complexlaw.ca  Tel: (416) 596-1414  1203-1200 Bay Street  Toronto, ON M5R 2A5</p>
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## 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs’ Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs’ Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor in Quebec (see below) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending an opt out form by mail, courier, or e-mail so that it is received on or before [date], 2024.

The opt out form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and an attestation that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s); and
- d. Your address(es) at the time you owned or leased the Subject Vehicle(s).

An opt-out form is available on the Settlement Website at [\[website link\]](#).

For **non-Quebec residents**, the opt out form should be sent to the Settlement Administrator through email to [\[settlement email address\]](#), or by mail or courier to [\[address of Settlement Claims Administrator\]](#).

**If you are a Quebec resident, your opt out form should be sent to the following address:**

Clerk of the Superior Court of Quebec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

## 9. What happens if I opt out/exclude myself from the Settlement Class?

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## F. OBJECTING TO THE SETTLEMENT

### 10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada. The Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada.

To object, **non-Quebec residents** must deliver an objection form to the Settlement Administrator by email to [\[settlement administrator email\]](#) or by courier or mail to [\[settlement administrator address\]](#) so that it is received on or before [\[date\]](#), 2024.

**If you are a Quebec resident, your objection form should be sent by [date], 2024 to the following address:**

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: *Michael Gagnon v. General Motors of Canada et. al.*  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

An objection form is available on the Settlement Website at [\[website link\]](#).

If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

## G. INTERVENOR STATUS

### 11. Can I intervene as a party in the file?

Note that Quebec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Quebec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Quebec Settlement

Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.

## H. THE APPROVAL HEARINGS IN COURT

### 12. When and where will the Courts decide whether to approve the Settlement?

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on [date], 2024 at [time] a.m. (Eastern Time); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Quebec H2Y 1B6 on [date], 2024 at [time] a.m. (Eastern Time).

The hearings may move to a different date, time, or location, or may be held virtually through videoconferencing. Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [settlement website] or call [settlement phone number established by Settlement Administrator] for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final and when the claims period will start. Please check the Settlement Website [settlement website link]. You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

### 13. Do I have to go to the hearings?

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to

attend the hearings at your own expense, or through videoconferencing if the Settlement Approval Hearings are heard virtually.

If you object by sending an objection form, you do not have to come to court to talk about it. So long as you sent your objection form on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. May I speak at the hearings?**

Yes. If you submitted a proper objection form, you or your lawyer may, at your own expense, come to the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

**I. IF YOU DO NOTHING**

**15. What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.

**J. GETTING MORE INFORMATION**

**16. How do I get more information about the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [website]. If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>			
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to [website], where you will find answers to common questions and other detailed information to help you.		
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call [phone number established by Settlement Administrator].		
<b>CONTACT CLASS COUNSEL</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> <p>Rochon Genova LLP</p> <p>Attention: Joan Sloan jsloan@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p> </td> <td style="width: 50%; padding: 5px;"> <p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw.ca Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p> </td> </tr> </table>	<p>Rochon Genova LLP</p> <p>Attention: Joan Sloan jsloan@rochongenova.com Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee mbm@complexlaw.ca Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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**EXHIBIT D2 – REVISED LONG-FORM CERTIFICATION NOTICE [FR]**

## Annexe « C » - Avis de certification long

Cour supérieure de justice de l'Ontario / Cour supérieure du Québec

**AVIS DE CERTIFICATION/D'AUTORISATION D' ACTIONS COLLECTIVES ET  
D'AUDIENCES D'APPROBATION D'UN REGLEMENT**

**Si vous êtes l'actuel ou l'ancien propriétaire ou locataire d'un véhicule GM ayant fait l'objet de certains rappels en 2014, vous pouvez bénéficier de droits et d'options dans le cadre du Règlement proposé.**

*Il ne s'agit pas d'une sollicitation de la part d'un avocat.*

**Si vous êtes un Membre du Groupe du Règlement (tel que défini ci-dessous), vos droits peuvent être affectés, que vous agissiez ou non.**

**Veillez lire cet avis attentivement**

- Cet avis a pour but de vous informer que la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec (les « Cours ») ont certifié/autorisé, à des fins de règlement, des actions collectives visant à obtenir une indemnisation pour les pertes pécuniaires subies par les propriétaires ou locataires actuels et passés de certains véhicules GM rappelés en 2014 (le « Règlement »). Les rappels concernaient les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur les Camaro et la direction assistée électrique. Les représentants du Groupe du Règlement allèguent que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué ces véhicules. General Motors LLC (« Nouvelle GM ») et Compagnie General Motors du Canada (anciennement General Motors of Canada Limited) (« GM Canada ») nient ces allégations. Les représentants du Groupe du Règlement, Nouvelle GM et GM Canada ont accepté le Règlement afin d'éviter le risque et le coût d'un long procès.
- Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour dommages corporels (et réclamations connexes de la famille/des personnes à charge), mort injustifiée ou dommages matériels réels liées aux rappels de 2014. Ces réclamations de groupe ont fait l'objet d'un désistement dans les actions collectives, peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations individuelles ne seront pas renoncées ou quittancées par l'approbation du Règlement. À la suite du désistement intervenu dans les actions collectives, les délais de prescriptions (les délais légaux pour instituer une poursuite) ne sont plus suspendus et ont recommencé à courir. Après l'expiration de la période de prescription, votre droit de poursuite sera éteint. Demandez conseil à votre propre avocat pour les délais légaux applicables aux poursuites individuelles.



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- Sous réserve de l’approbation des Cours, le Règlement établira un fonds de Règlement de 12 millions de dollars canadiens (le « **Montant du Fonds de Règlement** ») pour payer les réclamations des membres admissibles du Groupe du Règlement qui soumettront une réclamation en ligne ou par courrier avant la date limite qui sera affichée sur le Site Web du Règlement. Les montants des paiements aux Membres éligibles du Groupe du Règlement varieront en fonction des rappels qui s’appliquent à leurs véhicules, du montant des frais administratifs, du nombre et du type de véhicules éligibles pour lesquels des réclamations sont déposées, et du nombre de membres éligibles du Groupe du Règlement qui déposent des réclamations.
- Les représentants du Groupe du Règlement, qui font partie du groupe de personnes poursuivant Nouvelle GM et GM Canada, déposeront des demandes auprès de la Cour supérieure de justice de l’Ontario et de la Cour supérieure du Québec afin d’obtenir des ordonnances approuvant le Règlement (les « **Ordonnances d’approbation** »). Les Audiences d’approbation du Règlement proposé se tiendront le [date], 2024 à [heure] a.m. (heure de l’Est) devant la Cour supérieure de justice de l’Ontario et le [date], 2024 à [heure] a.m. (heure de l’Est) devant la Cour supérieure du Québec. Ces audiences sont publiques. Vous pouvez vous présenter aux Audiences d’approbation du Règlement à vos frais, soit de vous-même, soit par l’intermédiaire d’un avocat que vous aurez mandaté, mais vous n’êtes pas obligé de le faire.

<b>VOS DROITS ET OPTIONS JURIDIQUES DANS LE CADRE DE CE RÈGLEMENT</b>	
<b>Déposer une réclamation</b>	<ul style="list-style-type: none"> <li>• <b><u>La procédure de demande d’indemnisation n’a pas encore commencé. Vous n’avez rien à faire si vous avez l’intention de formuler une réclamation si le Règlement est approuvé.</u></b></li> <li>• À ce stade, les Cours ont seulement certifié/autorisé les actions collectives pour fins de règlement et l’approbation du règlement est pendante. Si le Règlement est approuvé par les tribunaux lors des Audiences d’approbation du Règlement, un Membre du Groupe du Règlement devra remplir et soumettre un formulaire de réclamation valide et dans les délais afin de recevoir un paiement du Montant du Fonds de Règlement.</li> <li>• Les Membres du Groupe du Règlement pourront remplir leur formulaire de demande de paiement en ligne ou par courrier.</li> <li>• Les procédures relatives à l’administration des réclamations et à l’allocation du Montant du Fonds de Règlement aux Membres du Groupe du Règlement sont décrites dans l’Entente de Règlement, qui peut être consulté sur le Site Web du Règlement.</li> <li>• De plus amples informations sur la manière de déposer une réclamation si le Règlement est approuvé sont disponibles sur [site web du Règlement].</li> </ul>

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	<ul style="list-style-type: none"> <li>• Vous pouvez enregistrer votre adresse électronique ou postale sur le Site Web du Règlement pour vous assurer de recevoir l’avis d’approbation du tribunal et la date limite de dépôt des demandes.</li> </ul>
<p><b>S’exclure ou « Opt Out » (se retirer)</b></p>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui s’excluent du Règlement ne recevront aucun bénéfice du Règlement.</li> <li>• Seuls les Membres du Groupe du Règlement qui s’excluent du Règlement conserveront le droit de poursuivre Nouvelle GM et GM Canada et certaines autres parties quittancées pour des réclamations de pertes pécuniaires alléguées dans les Actions à leurs propres frais. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.</li> <li>• Votre demande d’exclusion doit être reçue avant le [date] 2024. Les personnes qui ne résident pas au Québec peuvent envoyer leur demande d’exclusion à l’Administrateur du Règlement. Les résidents du Québec devraient envoyer leur demande d’exclusion à l’adresse suivante : <p style="text-align: center;">Greffé de la Cour Supérieure Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors of Canada et al.</i> 500-06-000687-141   500-06-000729-158 1 rue Notre Dame Est, bureau 1.120 Montréal, Québec, H2Y 1B5</p> </li> <li>• De plus amples informations sur la manière de s’exclure du Règlement peuvent être trouvées dans le paragraphe 8 ci-dessous et sur [site web du Règlement]. Un formulaire d’exclusion est disponible sur ce site internet.</li> </ul>
<p><b>S’objecter</b></p>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui ne s’excluent pas peuvent s’opposer au Règlement et expliquer par écrit pourquoi ils ne sont pas d’accord avec le Règlement ou une partie de celui-ci. Ces objections doivent être reçues avant le [date] 2024. Les personnes qui ne résident pas au Québec peuvent envoyer leur objection à l’Administrateur du Règlement. Les résidents du Québec devraient envoyer leur objection à l’adresse suivante : <p style="text-align: center;">Greffé de la Cour Supérieure Palais de justice de Montréal Objet : <i>Michael Gagnon c. General Motors of Canada et al.</i> 500-06-000687-141   500-06-000729-158 1 rue Notre Dame Est, bureau 1.120 Montréal, Québec, H2Y 1B5</p> </li> <li>• Les objections seront transmises aux tribunaux et examinées lors des Audiences d’approbation du Règlement. Les Membres du Groupe du</li> </ul>

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	<p>Règlement seront liés par tout Règlement approuvé par les Cours, même s'ils s'y sont opposés.</p> <ul style="list-style-type: none"> <li>• Pour plus d'informations sur les modalités d'opposition, voir la section 10 ci-dessous et à [site web du Règlement]. Un formulaire d'objection est disponible sur ce site internet.</li> </ul>
<b>Se rendre à l'audition</b>	<ul style="list-style-type: none"> <li>• Afin de déterminer s'il convient d'approuver l'Entente de Règlement, des Audiences d'approbation du Règlement se tiendront le [date], 2024 à [heure] a.m. (heure de l'Est) devant la Cour supérieure de justice de l'Ontario et le [date], 2024 à [heure] a.m. (heure de l'Est) devant la Cour supérieure de justice du Québec.</li> <li>• Les Cours examineront les objections au Règlement et les Membres du Groupe du Règlement qui s'y opposent peuvent demander à s'exprimer lors des audiences.</li> </ul>
<b>Ne rien faire</b>	<ul style="list-style-type: none"> <li>• Les Membres du Groupe du Règlement qui ne font rien, y compris qui ne déposent pas de réclamation lorsque le processus de réclamation commencera, ne recevront pas les avantages du Règlement, s'ils deviennent disponibles.</li> <li>• Les Membres du Groupe du Règlement qui ne font rien (et ne se retirent pas du Règlement, comme décrit ci-dessus) renonceront à leur droit de poursuivre Nouvelle GM, GM Canada et certaines autres parties quittancées au sujet des réclamations de pertes pécuniaires alléguées dans les Actions.</li> </ul>

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## A. INFORMATIONS DE BASE

### 1. Qu'est-ce que cet avis et pourquoi devrais-je le lire ?

Cet avis vous informe que la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec ont respectivement certifié et autorisé des actions collectives pour fins de règlement. L'avis fournit aussi des informations sur le Règlement, qui concerne toutes les réclamations de pertes pécuniaires liées aux rappels de 2014 de certains véhicules GM, alléguées dans quinze (15) actions en justice intentées au nom de personnes ayant possédé ou loué les véhicules GM rappelés. Ces actions collectives pour pertes pécuniaires sont déposées pour le compte des propriétaires et des locataires actuels et anciens de véhicules GM soumis à des rappels concernant les interrupteurs à clé de contact Delta, la rotation des clés, la problématique clé-genou sur la Camaro et/ou la direction assistée électrique avec les numéros de rappel de Transport Canada indiqués ci-dessous.

L'une des quinze actions est *Edward Oberski et al. v. General Motors LLC et al.* déposée devant la Cour supérieure de justice de l'Ontario (« **Cour de l'Ontario** ») portant le numéro de dossier CV-14-50203-CP (« **Action de l'Ontario** »), et deux des actions sont déposées devant la Cour supérieure du Québec (« **Cour du Québec** », et ensemble avec la Cour de l'Ontario, les « **Cours** »), *Michael Gagnon v. General Motors du Canada et al.*, dossier n° 500-06-000687-141 et *Michael Gagnon c. General Motors du Canada et autres*, dossier n° 500-000729-158 (les « **Actions du Québec** ») (collectivement, les « **Actions** »).

Les douze autres actions en justice faisant l'objet d'un Règlement (les « **Actions connexes** ») sont les suivantes : (i) *George Shewchuck c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1396/14, *Bradie Herbel c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 480/14, *Dale Hall c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1273/15, et *Rene Fradette c. General Motors du Canada Limitée et autres*, dossier judiciaire n° QBG 1181/15, chacun devant la Cour du Banc de la Reine de la Saskatchewan, (ii) *Garth Coen c. General Motors of Canada Limited et autres*, dossier no 14-1262, Cour suprême de la Colombie-Britannique, (iii) *Holly Standingready c. General Motors of Canada Limited*, dossier no 1403-04964, Cour du Banc de la Reine de l'Alberta, (iv) *Catherine Seeley c. General Motors of Canada Limited et autres*, dossier no C114-88682, Cour du Banc de la Reine du Manitoba, (v) *Chris Spicer c. General Motors du Canada Limitée et autres*, dossier no MC-176-14, Cour du Banc de la Reine du Nouveau-Brunswick, (vi) *Sue Brown et autres c. General Motors du Canada Limitée et autres*, dossier no 427140 et *Alex Mulford c. General Motors du Canada Limitée et autres*, dossier no 426204, tous deux devant la Cour suprême de la Nouvelle-Écosse, (vii) *Meghan Dunphy c. General Motors of Canada Ltd.*, dossier no 201401G2284CP, Cour suprême de Terre-Neuve, et (viii) *Academie Ste Cecile International School et. al. c. General Motors of Canada Limited*, dossier no CV-14-20629-CP, Cour supérieure de l'Ontario.

Cet avis explique les conditions du Règlement et vos droits légaux.

### 2. Sur quoi porte le Règlement ?

Les Représentants du Groupe du Règlement dans les Actions et les représentants dans les Actions connexes ont déposé des actions collectives contre Nouvelle GM et GM Canada, alléguant que les consommateurs ont payé trop cher lorsqu'ils ont acheté ou loué des véhicules GM qui faisaient

l'objet de certains rappels en 2014. Nouvelle GM et GM Canada nient ces allégations. Les Représentants du Groupe du Règlement, Nouvelle GM et GM Canada (ensemble les « **Parties** ») ont négocié le Règlement pour résoudre ces réclamations de pertes pécuniaires, ainsi que toutes les réclamations de pertes pécuniaires pour ces rappels qui ont été ou peuvent être revendiquées par le Groupe du Règlement contre Nouvelle GM et GM Canada et certaines autres parties quittancées. Le Règlement évite le risque et le coût d'un procès et fournit des avantages aux Membres du Groupe du Règlement (définis ci-dessous). Les Représentants du Groupe du Règlement dans les Actions, les représentants dans les Actions connexes et leurs avocats pensent que le Règlement est dans le meilleur intérêt de tous les membres du Groupe du Règlement et qu'il est juste, raisonnable et adéquat.

## B. QUI EST INCLUS DANS LE RÈGLEMENT ?

Pour être visé par le Règlement proposé, vous devez être Membre du Groupe du Règlement.

### 3. Comment puis-je savoir si je fais partie du Règlement? Quelle est la définition des membres du Groupe du Règlement?

Un **Membre du Groupe du Règlement** est une personne faisant partie du Groupe du Règlement. Le **Groupe du Règlement**, qui a été certifié ou autorisé par la Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec pour fins de Règlement uniquement, est défini comme suit :

Toutes les Personnes résidant au Canada, à l'exception des Personnes exclues, qui, à tout moment avant ou à la Date de publication du rappel pour le (ou les) Rappel(s) applicable(s) au(x) Véhicule(s) visé(s), ont possédé, acheté et/ou loué un Véhicule visé dans l'une ou l'autre des provinces/territoires du Canada.

« **Véhicules visés** » désigne les véhicules à moteur GM visés par les **Rappels**, tels que définis spécifiquement par les numéros d'identification des véhicules (**NIV**) fournis par GM à l'administrateur du Règlement.

Les « **Rappels** » et la « **Date de publications des rappels** » sont les suivants :

	Marque, modèle et année du modèle*	Numéro de rappel GM	Numéro de rappel de Transport Canada	Date de publication du rappel
<b>Rappel des interrupteurs à clé de contact Delta</b>	Chevrolet Cobalt 2005-2010 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	30 septembre 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit Pontiac Solstice 2006-2010	14063	2014-060	
	2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	

<b>Rappel de la rotation des touches</b>	Buick Allure 2005-2009 Buick Lucerne 2006-2011 Buick Regal 2004 2003-2014 Cadillac CTS 2000-2005 Cadillac Deville Cadillac DTS 2006-2011 2004-2006 Cadillac SRX	14172	2014-273	30 novembre 2014
	2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu 1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14497		
		14299	2014-246	
		14350	2014-284	
<b>Rappel Camaro clé-genou</b>	Chevrolet Camaro 2010-2014	14294	2014-243	31 octobre 2014
<b>Rappel de la direction assistée électrique</b>	Chevrolet Cobalt 2005-2010 Chevrolet HHR 2009-2010 2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx 2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14115	2014-104	28 février 2015
		14116		
		14117		
		14118		

\*Seuls les véhicules dont le numéro d'identification fait l'objet d'un ou de plusieurs des Rappels susmentionnés sont inclus dans le Règlement en tant que Véhicules visés. Consultez [le [site web du Règlement](#)] pour savoir si votre véhicule remplit les conditions requises.

La Date de publication du rappel est une date précise qui correspond à la fin du mois suivant le mois de la dernière notification initiale de GM aux propriétaires/locataires de chaque Rappel.

Rendez-vous sur [le [site web du Règlement](#)] ou appelez [le [numéro de téléphone établi par l'administrateur du Règlement](#)] pour savoir si votre véhicule GM est couvert par le Règlement. Préparez le numéro d'identification (NIV) de votre véhicule.

Le Groupe du Règlement est composé des quatre sous-groupes ci-dessous (les « **Sous-groupes** ») :

- Sous-groupe 1 : Sous-Groupe des interrupteurs à clé de contact Delta, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par les rappels de Transports Canada nos 2014-038, 2014-060 et 2014-101.
- Sous-groupe 2 : Le Sous-groupe rotation des clés, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par le rappel de Transports Canada n° 2014-273, 2014-246, 2014-284.
- Sous-groupe 3 : Le Sous-groupe Camaro clé-genou, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un véhicule visé par le rappel de Transports Canada n° 2014-243.

- Sous-groupe 4 : Le Sous-groupe direction assistée électrique, composé des Membres du Groupe du Règlement qui ont possédé, acheté et/ou loué un Véhicule visé par le rappel no 2014-104 de Transports Canada.

Les Membres du Groupe du Règlement possédant un Véhicule visé couvert à la fois par le Rappel des interrupteurs à clé de contact Delta et le Rappel de la direction assistée électrique seront membres à la fois du Sous-Groupe des interrupteurs à clé de contact Delta et du Sous-groupe direction assistée électrique et seront éligibles pour recevoir les paiements de Règlement alloués aux deux Sous-groupes. Les Membres du Groupe du Règlement possédant plusieurs véhicules visés seront membres des Sous-groupes applicables à chacun de leurs Véhicules visés respectifs.

Le droit québécois requiert que les informations suivantes soient données aux Membres du Groupe du Règlement du Québec. Pour les Actions du Québec, la question principale de fait et de droit autorisé par les Cours pour fins de règlement est :

Les intimées sont-elles tenues de verser des dommages-intérêts compensatoires aux Membres du Groupe en raison du défaut ?

Pour les Actions du Québec, les conclusions principales autorisées par les Cours pour fins de règlement sont :

**CONDAMNER** les Défenderesses à verser aux Membres du Groupe des dommages-intérêts équivalant au montant de la perte de (...) de la valeur du Véhicule visé (...);

**CONDAMNER** les Défenderesses à rembourser aux Membres du Groupe toute dépense (...) liée à la défectuosité ou à sa réparation;

**CONDAMNER** les Défenderesses à verser des dommages-intérêts compensatoires aux Membres du Groupe pour la perte d'usage et de jouissance des Véhicules visés, les ennuis, les inconvénients et la perte de temps;

## C. LES TERMES DE L'ENTENTE DE REGLEMENT

### 4. À quoi est-ce que je renonce dans le cadre de l'Entente de Règlement ?

Dans le cadre du Règlement proposé, chaque membre du Groupe du Règlement sera réputé avoir renoncé, libéré et promis de ne pas intenter une action pour toute réclamation de perte pécuniaire que le Membre du Groupe du Règlement a ou pourrait avoir à l'avenir, directement ou indirectement, contre Nouvelle GM, GM Canada et certaines autres parties quittancées (les « **Parties quittancées** »).

Le Règlement proposé ne s'applique pas à toutes les demandes d'indemnisation du Groupe pour des dommages corporels (et réclamations connexes de la famille/des personnes à charge), une mort injustifiée ou des dommages matériels réels liées aux rappels de 2014. Ces réclamations de *groupe* ont fait l'objet d'un désistement des actions collectives et peuvent faire l'objet de poursuites sur une base individuelle (hors d'une action collective) si possible dans votre province, et ces réclamations *individuelles* ne seront pas renoncées ou quittancées par l'approbation du Règlement.



À la suite du désistement intervenu dans les actions collectives, les délais de prescriptions (les délais légaux pour instituer une poursuite) ne sont plus suspendus et ont recommencé à courir. Après l'expiration de la période de prescription, votre droit de poursuite sera éteint. Demandez conseil à votre propre avocat pour les délais légaux applicables aux poursuites individuelles.

Si approuvé par les tribunaux, le Règlement interdira aux Membres du Groupe du Règlement d'intenter ou de participer à tout autre action ou réclamation contre les Parties quittancées en rapport avec l'objet des Actions, des Actions connexes et des Rappels, y compris, mais sans s'y limiter, ceux relatifs à la conception, à la fabrication, à la publicité, aux essais, à la fonctionnalité, à l'entretien, à la vente, à la location ou à la revente des Véhicules visés (les « **Réclamations quittancées** »). Les Réclamations quittancées sont décrites plus en détail dans l'Entente de Règlement, qui est publié sur [site web du Règlement]. L'Entente de Règlement décrit les Réclamations quittancées dans un langage juridique. Consultez votre propre avocat si vous avez des questions sur les Réclamations quittancées ou sur leur sens.

## 5. Que pourrais-je recevoir dans le cadre de l'Entente de Règlement ?

L'Entente de Règlement permet aux Membres du Groupe du Règlement de soumettre une réclamation à l'Administrateur du Règlement et, s'ils sont admissibles, de recevoir un paiement du Montant du Fonds de Règlement, tel que décrit ci-dessous.

### i. Le Montant du Fonds de Règlement

En échange de la renonciation des Membres du Groupe du Règlement aux Réclamations quittancées, un fonds de Règlement de 12 millions de dollars canadiens sera établi (le « **Montant du Fonds de Règlement** »). Les paiements de Règlement aux Membres du Groupe du Règlement éligibles ne seront effectués que si (i) les Ordonnances d'approbation de la Cour de l'Ontario et de la Cour du Québec et (ii) les ordonnances rejetant les Actions connexes avec préjudice et sans frais deviennent définitives, entre autres ordonnances, et après déduction des Frais administratifs (tels que ceux liés à l'administration des réclamations).

### ii. Comment les paiements pour les réclamations éligibles seront-elles allouées ?

Le « **Montant net du Règlement** » sera déterminé en déduisant les Frais administratifs, les taxes et tout paiement d'honoraria du Montant du Fonds de Règlement. L'intégralité du Montant net du Règlement sera distribuée aux Membres du Groupe du Règlement dont les réclamations auront été jugées éligibles par l'Administrateur du Règlement. Les Membres du Sous-groupe des interrupteurs à clé de contact Delta recevront le double (2x) du montant payé aux membres des Sous-groupes Camaro clé-genou et direction assistée électrique, et les membres du Sous-groupe rotation des clés recevront une fois et demie (1,5x) le montant payé aux membres des Sous-groupes Camaro clé-genou et direction assistée électrique. Un membre éligible du Groupe du Règlement possédant un véhicule sujet au Rappel des interrupteurs à clé de contact Delta et au rappel de la direction assistée électrique recevra à la fois les paiements de Règlement du Sous-Groupe des interrupteurs à clé de contact Delta et du Sous-Groupe direction assistée électrique. Le processus de calcul du montant net du Règlement est décrit dans l'Entente de Règlement.

### iii. Comment puis-je obtenir un paiement à partir du Montant net du Règlement ?

**Le processus de réclamation n'a pas encore commencé et ne commencera qu'à partir du moment où les Cours auront approuvé le Règlement.** Si le Règlement est approuvé par les tribunaux lors des Audiences d'approbation du Règlement, vous pourrez déposer un Formulaire de réclamation en ligne ou par courrier, le cachet de la poste faisant foi, avant la date limite affichée sur le Site Web du Règlement, afin de recevoir un paiement. Les réclamations peuvent être soumises en ligne sur [site web du Règlement] ou par courrier à [adresse de l'administrateur du Règlement]. Pour certains Membres du Groupe du Règlement, un Formulaire de réclamation complet et des documents supplémentaires peuvent être nécessaires pour établir l'éligibilité. Les instructions figurent sur le Formulaire de réclamation et sur le Site Web du Règlement. Vous pouvez enregistrer votre adresse électronique ou postale sur le Site Web du Règlement afin de vous assurer de recevoir l'avis d'approbation du tribunal et la date limite de faire une réclamation.

Si vous ne soumettez pas de Formulaire de réclamation dans les délais impartis, vous ne recevrez pas de paiement. L'envoi tardif d'un Formulaire de réclamation équivaudra à ne rien faire.

#### D. REPRÉSENTATION JURIDIQUE

##### 6. Ai-je droit à un avocat dans le cadre de ce Règlement ?

Les avocats qui représentent les Représentants du Groupe du Règlement (« **Co-Avocats Principaux** »), mentionnés ci-dessous, ont négocié l'Entente de Règlement avec Nouvelle GM et GM Canada. Les Co-Avocats Principaux déposeront les demandes auprès de la Cour de l'Ontario et de la Cour du Québec afin d'obtenir l'approbation du Règlement. Les services fournis par les Co-Avocats Principaux ne vous seront pas facturés. Si vous souhaitez être représenté par votre propre avocat, vous pouvez en mandater un à vos frais.

Si vous souhaitez contacter les Co-Avocats Principaux, vous pouvez le faire à l'adresse suivante :

<p>Rochon Genova LLP</p> <p>À l'attention de Joan Sloan jsloan@rochongenova.com Tél. : 1-866-881-2292 ou local (416) 363-1867</p> <p>121 Richmond Street Ouest Bureau #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>À l'attention de Megan B. McPhee mbm@complexlaw.ca Tél. : (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>
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##### 7. Comment les avocats du Groupe seront-ils payés ?

Les Co-Avocats Principaux demanderont à la Cour de l'Ontario et à la Cour du Québec, au nom de tous les avocats des Groupe qui représentent une personne réclamant dans le cadre des Actions et/ou des Actions connexes, l'approbation d'un montant total de 4 397 500 \$ CA à titre de paiement par les Défenderesses pour les honoraires des avocats des représentants, les dépenses, les coûts,

les débours et les taxes connexes (le « **Montant maximum des honoraires des Avocats du Groupe** »). Cette demande d'honoraires devra être approuvée par les tribunaux.

Les tribunaux peuvent attribuer un montant inférieur à celui demandé par les Co-Avocats Principaux. Toutefois, les Défenderesses ne devront en aucun cas payer un montant supérieur au Montant maximum des honoraires des Avocats du Groupe et, si les tribunaux attribuent un montant inférieur au Montant maximum des honoraires des Avocats du Groupe, les Défenderesses ne devront payer que le montant le moins élevé.

Ce montant attribué par les tribunaux pour les honoraires des avocats des représentants, les dépenses, les coûts, les débours et les taxes associées ne sera pas prélevé sur le Montant du Fonds de Règlement décrit ci-dessus.

Aucun membre autre que les Représentants du Groupe de Règlement ou un intervenant au Québec (voir ci-dessous) ne peut être tenu de payer les frais de justice associés aux actions collectives.

## E. S'EXCLURE DU RÈGLEMENT

### 8. Comment puis-je me retirer ou m'exclure du Règlement ?

Si vous ne souhaitez pas être Membre du Groupe du Règlement et que vous ne souhaitez pas participer au Règlement, vous pouvez vous exclure du Groupe du Règlement ou vous en retirer en envoyant un formulaire d'exclusion du Règlement par la poste, par messengerie ou par e-mail, de sorte qu'il soit reçu au plus tard le [date], 2024.

Le formulaire d'exclusion doit inclure :

- a. Votre nom complet, votre adresse postale, votre numéro de téléphone et votre adresse électronique ;
- b. La preuve que vous êtes un Membre du Groupe du Règlement, y compris la preuve des dates auxquelles vous avez possédé ou loué le(s) Véhicule(s) visé(s), et une déclaration selon laquelle vous n'êtes pas une Personne exclue ;
- c. La marque, le modèle, l'année du modèle et le numéro d'identification du Véhicule visé ; et

Votre (vos) adresse(s) au moment où vous possédiez ou louiez le(s) Véhicule(s) visé(s).

Un formulaire d'exclusion est disponible sur le Site Web du Règlement à [lien vers le site].

Pour **les personnes qui ne résident pas au Québec**, le formulaire d'exclusion devrait être envoyé à l'Administrateur du Règlement par courriel à l'adresse [adresse électronique du Règlement], ou par courrier ou service de messengerie à l'adresse [adresse de l'administrateur des demandes de Règlement].

**Si vous êtes un résident du Québec, votre avis d'exclusion devrait être envoyé à l'adresse suivante :**

Greffe de la Cour Supérieure  
Palais de justice de Montréal  
Objet : *Michael Gagnon c. General Motors of Canada et al.*

500-06-000687-141 | 500-06-000729-158  
1 rue Notre Dame Est, bureau 1.120  
Montréal, Québec, H2Y 1B5

## 9. Que se passe-t-il si je m'exclus du Groupe du Règlement ?

Si vous vous excluez du Groupe du Règlement, vous ne recevrez pas d'argent ou d'avantages de ce Règlement. Toutefois, en vous excluant, vous conserverez votre droit individuel de poursuivre les Parties quittancées pour les pertes pécuniaires alléguées dans les Actions et les Actions connexes, à vos propres frais. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.

## F. OBJECTION AU RÈGLEMENT

### 10. Comment puis-je dire à la Cour supérieure de justice de l'Ontario ou à la Cour supérieure du Québec que je ne suis pas d'accord avec le Règlement ?

Si vous êtes membre du Groupe du Règlement et si vous ne vous excluez pas du Groupe du Règlement, vous pouvez vous opposer au Règlement proposé si vous n'êtes pas d'accord avec le Règlement ou une partie de celui-ci. Vous pouvez donner les raisons pour lesquelles vous pensez que les tribunaux ne devraient pas approuver le Règlement ou une partie de celui-ci, et le tribunal approprié examinera votre objection. Le tribunal de l'Ontario examinera les objections de tous les Membres Groupe du Règlement autres que ceux dont les Véhicules visés ont été remis à un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada. Le tribunal du Québec examinera les objections des Membres du Groupe du Règlement dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada.

Pour s'opposer, **les personnes qui ne résident pas au Québec** doivent envoyer leur formulaire d'objection à l'Administrateur du Règlement par courriel à [courriel de l'administrateur du Règlement] ou par courrier ou messagerie à [adresse de l'administrateur du Règlement] de manière à ce qu'elle soit reçue au plus tard le [date] 2024.

**Si vous êtes un résident du Québec**, votre formulaire d'objection devrait être envoyée avant le [date] 2024 à l'adresse suivante :

Greffe de la Cour Supérieure  
Palais de justice de Montréal  
Objet : *Michael Gagnon c. General Motors of Canada et al.*  
500-06-000687-141 | 500-06-000729-158  
1 rue Notre Dame Est, bureau 1.120  
Montréal, Québec, H2Y 1B5

Les objections reçues après cette date ne seront pas prises en compte.

Votre formulaire d'objection signé doit inclure :

- a. Votre nom complet, votre adresse postale, votre numéro de téléphone et votre adresse électronique ;
- b. La preuve que vous êtes un membre du Groupe du Règlement, y compris la preuve des dates auxquelles vous avez possédé ou loué le(s) Véhicule(s) visé(s), et une déclaration selon laquelle vous n'êtes pas une Personne exclue ;
- c. La marque, le modèle, l'année du modèle et le numéro d'identification du Véhicule visé ;
- d. Une déclaration de la nature et de la raison de l'objection au Règlement, y compris tous les motifs factuels et juridiques de l'objection, et
- e. Si vous avez l'intention de comparaître en personne/par vidéoconférence, le cas échéant, ou par l'intermédiaire d'un avocat lors de l'audience d'approbation du Règlement, et si vous comparez par l'intermédiaire d'un avocat, le nom, l'adresse, le numéro de téléphone et l'adresse électronique de l'avocat.

Un formulaire d'objection est disponible sur le Site Web du Règlement à [\[lien vers le site\]](#).

Si vous ne déclarez pas votre intention de comparaître dans les délais et spécifications applicables, ou si vous ne soumettez pas d'objection dans les délais et spécifications applicables, vous renoncerez à toute objection et pourrez être empêché de prendre la parole lors des audiences d'approbation du Règlement.

Notez que vous n'avez pas besoin de demander le statut d'intervenant pour vous objecter au Règlement et présenter vos observations devant les Cours lors des Audiences d'approbation.

## G. STATUT D'INTERVENANT

### 11. Puis-je intervenir à titre de partie dans le dossier?

Notez que les Membres du Groupe de Règlement du Québec peuvent demander à la Cour supérieure du Québec la permission **d'intervenir** si l'intervention est considérée comme utile au groupe. Un Membre du Groupe de Règlement du Québec qui intervient peut être tenu de se soumettre à un interrogatoire préalable au procès à la demande des Défenderesses. Un Membre du Groupe de Règlement qui n'intervient pas ne peut être soumis à un interrogatoire préalable, à moins que la Cour ne considère que cela serait utile pour déterminer les questions de droit ou de fait à traiter collectivement. Il n'est pas nécessaire d'intervenir pour s'opposer à l'Entente de Règlement (voir ci-dessus) ou pour assister aux Audiences d'approbation. Les Membres du Groupe de Règlement du Québec qui choisissent d'intervenir et qui souhaitent être représentés par un avocat devront mandater leur propre avocat. Les Membres du Groupe de Règlement du Québec sont les Membres du Groupe de Règlement dont les véhicules concernés sont identifiés, sur la base d'informations raisonnablement disponibles de GM, comme ayant été vendus au détail pour la première fois au Québec.

## H. LES AUDIENCES D'APPROBATION DEVANT LE TRIBUNAL

### 12. Quand et où les Cours décideront-elles d'approuver ou non le Règlement ?

La Cour supérieure de justice de l'Ontario et la Cour supérieure du Québec tiendront des Audiences d'approbation du Règlement pour décider d'approuver ou non l'Entente de Règlement proposée. Les Audiences d'approbation du Règlement se tiendront comme suit :

- La Cour supérieure de justice de l'Ontario tiendra une audience d'approbation du Règlement au 130 Queen Street West, Toronto, ON M5H 2N5 le [date], 2024 à [heure] a.m. (heure de l'Est) ; et
- La Cour supérieure du Québec tiendra une audience d'approbation du Règlement au Palais de justice de Montréal, 1 rue Notre-Dame Est, Montréal, Québec H2Y 1B6 le [date], 2024 à [heure] a.m. (heure de l'Est).

Les audiences peuvent être déplacées à une date, une heure ou un lieu différent, ou peuvent être tenues virtuellement par vidéoconférence. Veuillez noter que la date ou le lieu de l'une ou l'autre des audiences peut être modifié sans préavis autre qu'une mise à jour sur le Site Web du Règlement. Les membres du Groupe du Règlement sont encouragés à consulter le Site Web du Règlement à l'adresse [Site Web du Règlement] ou à appeler [numéro de téléphone du Règlement établi par l'administrateur du Règlement] pour obtenir des plus amples informations.

Lors de ces audiences, les Cours détermineront si le Règlement est équitable, raisonnable et dans le meilleur intérêt du Groupe du Règlement. Les Co-Avocats Principaux répondront à toutes les questions que les Cours pourraient avoir sur le Règlement. S'il y a des objections, les Cours les prendront en considération lors des audiences. Après les audiences, la Cour de l'Ontario décidera d'approuver ou non le Règlement en ce qui concerne tous les Membres du Groupe du Règlement autres que ceux dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada, et la Cour du Québec examinera les objections des Membres du Groupe du Règlement dont les Véhicules visés ont été mis à la disposition d'un concessionnaire GM autorisé situé au Québec pour la première vente au détail au Canada. Des appels peuvent être interjetés après la décision d'une des Cours. Il n'y a pas de calendrier établi pour la décision d'approbation finale de la Cour, ni pour les appels qui pourraient être interjetés suite à cette décision, il est donc impossible de savoir exactement si et quand le Règlement deviendra Final et quand la période de réclamation débutera. Veuillez consulter le site web du Règlement [lien vers le site web du Règlement]. Vous pouvez enregistrer votre adresse électronique et votre adresse postale sur le site Web du Règlement afin de vous assurer de recevoir un avis d'approbation de la Cour et de la date limite de réclamation.

### 13. Dois-je me rendre aux auditions ?

Non. Les Co-Avocats Principaux comparaitront aux deux Audiences d'approbation du Règlement à l'appui du Règlement et répondront à toutes les questions posées par les tribunaux. Cependant, vous pouvez assister aux audiences à vos propres frais ou par vidéoconférence si les Audiences d'approbation du Règlement sont virtuelles.

Si vous vous objectez en envoyant un formulaire d'objection, vous n'avez pas besoin de venir au tribunal pour en parler. Tant que vous avez envoyé votre formulaire d'objection dans les délais et que vous avez respecté les autres conditions de validité d'une objection énoncées ci-dessus, le tribunal compétent l'examinera. Vous pouvez y assister ou payer votre propre avocat pour qu'il y assiste, mais ce n'est pas obligatoire.

#### **14. Puis-je prendre la parole lors des auditions ?**

Oui. Si vous avez soumis un formulaire d'objection en bonne et due, vous ou votre avocat pouvez, à vos propres frais, vous présenter à l'audience d'approbation du Règlement et y prendre la parole. Si vous avez possédé ou loué un véhicule sujet qui a été identifié, sur la base d'informations raisonnablement disponibles, comme ayant été vendu au détail pour la première fois au Québec et que vous souhaitez vous adresser à la Cour concernant votre objection, vous assisterez à l'audience devant la Cour du Québec, et si vous avez possédé ou loué un véhicule sujet qui a été identifié, sur la base d'informations raisonnablement disponibles, comme ayant été vendu au détail pour la première fois en dehors du Québec et que vous souhaitez vous adresser à la Cour concernant votre objection, vous assisterez à l'audience devant la Cour de l'Ontario. Il n'est pas nécessaire d'obtenir le statut d'intervenant pour s'opposer à l'Entente de Règlement et présenter vos observations lors des Audiences d'approbation.

### **I. SI VOUS NE FAITES RIEN**

#### **15. Que se passe-t-il si je ne fais rien du tout ?**

Vous avez le droit de ne rien faire. Si vous ne faites rien, y compris si vous ne soumettez pas de réclamation lorsque le processus de réclamation commence, vous ne recevrez aucun bénéfice du Règlement. En outre, vous ne pourrez plus faire partie de l'action collective ou de toute autre action en justice à l'encontre des Parties quittancées concernant les Réclamations quittancées dans le cadre de ce Règlement. Plus précisément, une fois que l'approbation des deux tribunaux sera Finale, le Règlement vous interdira de poursuivre ou de faire partie de tout autre procès ou réclamation à l'encontre des parties quittancées en rapport avec l'objet des Actions, des Actions connexes et des Rappels, y compris, mais sans s'y limiter, ceux relatifs à la conception, à la fabrication, à la publicité, aux essais, à la fonctionnalité, à l'entretien, à la vente, à la location ou à la revente des véhicules en question. Toutefois, les Membres du Groupe du Règlement ne renonceront pas à toute réclamation individuelle qu'ils pourraient avoir à l'encontre des Parties quittancées en cas de préjudice corporel, de mort injustifiée ou de dommages matériels réels résultant d'un accident impliquant un Véhicule visé. Demandez conseil à votre avocat au sujet des délais légaux pour les actions individuelles.

### **J. OBTENIR PLUS D'INFORMATIONS**

#### **16. Comment puis-je obtenir plus d'informations sur le Règlement ?**

Cet Avis résume le Règlement proposé. Pour connaître les termes et conditions précis du Règlement, veuillez consulter l'Entente de Règlement, les Ordonnances d'approbation et toutes les ordonnances supplémentaires rendues par les tribunaux concernant le Règlement, qui sont toutes disponibles (ou seront disponibles une fois les ordonnances rendues par les tribunaux) sur



le Site Web du Règlement à l'adresse [site Web]. En cas de conflit entre le présent avis et l'Entente de Règlement, l'Entente de Règlement prévaut.

<b>VOUS POUVEZ OBTENIR DES INFORMATIONS SUPPLÉMENTAIRES EN</b>		
<b>VISITANT LE SITE WEB DU RÈGLEMENT</b>	Veuillez vous rendre sur [site web], où vous trouverez des réponses aux questions les plus courantes et d'autres informations détaillées pour vous aider.	
<b>APPELANT LE NUMÉRO DE TÉLÉPHONE DU RÈGLEMENT</b>	Appelez le [numéro de téléphone établi par l'administrateur du Règlement].	
<b>CONTACTANT L'AVOCAT DU GROUPE</b>	<p>Rochon Genova LLP</p> <p>À l'attention de Joan Sloan jsloan@rochongenova.com Tél. : 1-866-881-2292 ou local (416) 363-1867</p> <p>121 Richmond Street Ouest Bureau #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>À l'attention de Megan B. McPhee mbm@complexlaw.ca Tél. : (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>





**EXHIBIT D3 - REVISED LONG-FORM CERTIFICATION NOTICE [REDLINE]**

Schedule “C” – Long-Form Certification Notice~~Schedule “C” – Long-Form Certification Notice~~

Ontario Superior Court of Justice / Superior Court of Québec

NOTICE OF ~~PROPOSED~~ CLASS ACTION CERTIFICATION/AUTHORIZATIONANDSETTLEMENT APPROVAL HEARING

~~If You Are a Current or Former Owner or Lessee of a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.~~

If You Are a Current or Former Owner or Lessee of a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.

*This is not a solicitation from a lawyer.*

**If you are a Settlement Class Member (as defined below), your legal rights may be affected whether you act or do not act.**

**Please Read this Notice Carefully**

- This Notice is to inform you ~~of that~~ the ~~proposed settlement (the “Settlement”)~~ of Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by ~~persons who owned~~ current and former owners or ~~leased~~ lessees of certain GM vehicles that were recalled in 2014 (the “Settlement”). The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) deny these allegations. Settlement Class Representatives, New GM and GM Canada have agreed to the Settlement to avoid the risk and cost of further litigation.

Schedule “C” – Long-Form Certification Notice

- ~~As part of the~~The proposed Settlement, all class does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage ~~arising from an accident involving a Subject Vehicle relating to the 2014 recalls. These class claims have been discontinued or removed. The Settlement will not include the release of~~from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such individual claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. Participating in this Settlement will not restrict you from bringing an individual claim for damages related to personal injury (and related family/dependent claims), wrongful death or actual physical property damage will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.
- Subject to court approval, the Settlement will establish a settlement fund of CA\$12 million (the “**Settlement Fund Amount**”) to pay claims to eligible Settlement Class Members who submit a claim online or by mail before the deadline which will be posted on the Settlement Website. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, the number and type of eligible vehicles for which claims are filed, and the number of eligible Settlement Class Members who file claims.
- The Settlement Class Representatives, who are among the persons suing New GM and GM Canada, will file motions in the Ontario Superior Court of Justice and the Superior Court of Québec ~~(the “Courts”)~~ seeking orders approving the Settlement (the “**Approval Orders**”). Settlement Approval Hearings have been scheduled for [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and for [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec. These hearings are public. You may appear at the Settlement Approval Hearings at your own cost, either yourself or through a lawyer hired by you, but you do not have to do so.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>File a Claim</b>	<ul style="list-style-type: none"> <li> <p><b><u>The claims process has not yet begun. You do not need to do anything now if you intend to file a claim if/after the settlement is approved.</u></b></p> </li> <li> <p><u>At this stage, the Courts only certified/authorized the class actions for settlement purposes and settlement approval is still pending.</u> If the Settlement is approved by the Courts at the Settlement Approval Hearings, a Settlement Class Member <del>must</del><u>will have to</u> complete and submit a valid and timely claim form in order to receive a payment from the Settlement Fund Amount.</p> </li> </ul>

Schedule “C” – Long-Form Certification Notice

	<ul style="list-style-type: none"> <li>• Settlement Class Members <del>may</del><u>will be able to</u> complete <del>at</del><u>their</u> claim form for payment online or by mail.</li> <li>• Procedures for the administration of claims and allocation of the Settlement Fund Amount to Settlement Class Members are described in the Settlement Agreement, which can be found on the Settlement Website.</li> <li>• More information about how to file a claim if the Settlement is approved can be found at <u>[settlement website]</u>.</li> <li>• You may register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.</li> </ul>
<p><b>Exclude Yourself or “Opt Out”</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who exclude themselves - or “opt out” - from the Settlement will not receive any Settlement benefits.</li> <li>• Only Settlement Class Members who opt out of the Settlement will retain the right to sue New GM and GM Canada and certain other released parties for economic loss claims alleged in the Actions at their own expense. Get advice from your <u>own</u> lawyer about <u>legal</u> deadlines for individual lawsuits.</li> <li>• Your request to opt out must be received by <u>[date]</u>, 2024. Non-Quebec residents may send their opt out request to the Settlement Administrator. Quebec residents should send their opt out request to the following address:  <p style="text-align: center;">Clerk of the Superior Court of Quebec                      Montréal Court house                      Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>                      500-06-000687-141   500-06-000729-158                      1, Notre-Dame Street East, Room 1.120                      Montréal, Québec H2Y 1B5.</p> </li> <li>• More information about how to opt out of the Settlement can be found in paragraph 8 below and at <u>[settlement website]</u>. <u>An opt-out form is available on this website.</u></li> </ul>
<p><b>Object</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do not opt out can object to the Settlement and explain why they do not like the Settlement in writing. Such objections must be received by <u>[date]</u>, 2024. Non-Quebec residents should send their objections to the Settlement Administrator. Quebec residents <del>may</del><u>should</u> send their objections to the following address:  <p style="text-align: center;">Clerk of the Superior Court of Quebec                      Montréal Court house                      Re: <i>Michael Gagnon v. General Motors of Canada et. al.</i>                      500-06-000687-141   500-06-000729-158                      1, Notre-Dame Street East, Room 1.120                      Montréal, Québec H2Y 1B5.</p> </li> <li>• Objections will be delivered to the Courts and considered at the Settlement Approval Hearings. Settlement Class Members will be</li> </ul>

Schedule “C” – Long-Form Certification Notice

	<p>bound by any Court-approved Settlement even though they objected to it.</p> <ul style="list-style-type: none"> <li>• More information about how to object can be found in paragraph 10 below and at [settlement website]. <a href="#">An objection form is available on this website.</a></li> </ul>
<p><b>Go to the Hearing</b></p>	<ul style="list-style-type: none"> <li>• To determine whether to approve the Settlement Agreement, Settlement Approval Hearings will be held on [date], 2024 at [time] a.m. (Eastern Time) before the Ontario Superior Court of Justice and on [date], 2024 at [time] a.m. (Eastern Time) before the Superior Court of Québec.</li> <li>• The Courts will consider objections to the Settlement and objecting Settlement Class Members may ask to speak at the hearings <a href="#">if they choose to do so (not required).</a></li> </ul>
<p><b>Do Nothing</b></p>	<ul style="list-style-type: none"> <li>• Settlement Class Members who do nothing, including not filing a claim when the claims process begins, will not receive Settlement benefits, if they become available.</li> <li>• Settlement Class Members who do nothing (and do not-opt out of the Settlement, as described above) will give up their right to sue New GM, GM Canada and certain other released parties about the economic loss claims alleged in the Actions.</li> </ul>

Schedule “C” – Long-Form Certification Notice**WHAT THIS NOTICE CONTAINS**

1.	What is this Notice and why should I read it? .....	<del>4</del> <u>6</u>
2.	What is the Settlement about? .....	<del>4</del> <u>6</u>
3.	How do I know if I am part of the Settlement? What is the definition of Settlement Class Members? .....	<del>2</del> <u>7</u>
4.	What am I giving up under the Settlement Agreement? .....	<del>4</del> <u>9</u>
5.	What <del>am</del> <u>might</u> I <del>be</del> <u>receiving</u> under the Settlement Agreement? .....	<del>4</del> <u>10</u>
6.	Do I have a lawyer in this Settlement? .....	<del>5</del> <u>11</u>
7.	How will the plaintiffs’ lawyers be paid? .....	<del>6</del> <u>11</u>
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9.	What happens if I <u>opt out</u> /exclude myself from the Settlement Class? .....	<del>7</del> <u>12</u>
10.	How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement? .....	<del>8</del> <u>12</u>
<del>11</del>		
<u>11.</u>	<u>Can I intervene as a party in the file?</u> .....	<u>13</u>
<u>12.</u>	When and where will the Courts decide whether to approve the Settlement? .....	<u>9</u> <u>14</u>
<del>12</del> <u>13.</u>	Do I have to go to the hearings? .....	<del>9</del> <u>14</u>
<del>13</del> <u>14.</u>	May I speak at the hearings? .....	<del>10</del> <u>15</u>
<del>14</del> <u>15.</u>	What happens if I do nothing at all? .....	<del>10</del> <u>15</u>
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<u>16.</u>	How do I get more information about the Settlement? .....	<del>10</del> <u>15</u>

## A. BASIC INFORMATION

### 1. What is this Notice and why should I read it?

This Notice [advises that the Ontario Superior Court of Justice and Superior Court of Québec respectively certified and authorized proposed class actions for settlement purposes.](#) It also provides information about the Settlement ~~of~~, [which pertains to](#) all economic loss claims relating to the 2014 recalls of certain GM vehicles alleged in fifteen (15) lawsuits brought on behalf of persons who owned or leased the recalled GM vehicles. These economic loss class claims are made by current and former owners and lessees of GM vehicles subject to recalls relating to Delta ignition switches, key rotation, Camaro knee-key, and/or electric power steering with the Transport Canada recall numbers listed below.

One of the fifteen lawsuits is *Edward Oberski et al. v. General Motors LLC et. al.* filed in the Ontario Superior Court of Justice (“**Ontario Court**”) bearing Court File No. CV-14-50203-CP (“**Ontario Action**”), and two of the lawsuits are filed in the Superior Court of Québec (“**Québec Court**”), and together with the Ontario Court, the “**Courts**”), *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-06-000687-141 and *Michael Gagnon v. General Motors of Canada et. al.*, Court File No. 500-000729-158 (“**Québec Actions**”) (collectively, “**Actions**”).

The other twelve lawsuits being settled (the “**Related Actions**”) are as follows: (i) *George Shewchuck v. General Motors of Canada Limited, et. al.*, Court File No. QBG 1396/14, *Bradie Herbel v. General Motors of Canada Limited et. al.*, Court File No. QBG 480/14, *Dale Hall v. General Motors of Canada Limited et. al.*, Court File No. QBG 1273/15, and *Rene Fradette v. General Motors of Canada Limited et. al.*, Court File No. QBG 1181/15, each in Saskatchewan Court of Queen’s Bench, (ii) *Garth Coen v. General Motors of Canada Limited et. al.*, Court File No. 14-1262, British Columbia Supreme Court, (iii) *Holly Standingready v. General Motors of Canada Limited*, Court File No. 1403-04964, Alberta Court of Queen’s Bench, (iv) *Catherine Seeley v. General Motors of Canada Limited et. al.*, Court File No. C114-88682, Manitoba Court of Queen’s Bench, (v) *Chris Spicer v. General Motors of Canada Ltd. et. al.*, Court File No. MC-176-14, New Brunswick Court of Queen’s Bench, (vi) *Sue Brown et. al. v. General Motors of Canada Limited et. al.*, Court File No. 427140 and *Alex Mulford v. General Motors of Canada Ltd.*, Court File No. 426204, both in the Nova Scotia Supreme Court, (vii) *Meghan Dunphy v. General Motors of Canada Ltd.*, Court File No. 201401G2284CP, Newfoundland Supreme Court, and (viii) *Academie Ste Cecile International School et. al. v. General Motors of Canada Limited*, Court File No. CV-14-20629-CP, Ontario Superior Court.

This Notice explains the terms of the Settlement and your legal rights.

### 2. What is the Settlement about?

Settlement Class Representatives in the Actions and plaintiffs in the Related Actions filed proposed class action claims against New GM and GM Canada alleging that consumers overpaid when they bought or leased GM vehicles that were subject to certain 2014 recalls. New GM and GM Canada deny these allegations. The Settlement Class Representatives, New GM and GM Canada (together the “**Parties**”) negotiated the Settlement to resolve these economic loss claims, as well as all economic loss claims for these recalls that have been or may be asserted by the



Settlement Class against New GM and GM Canada and certain other released parties. The Settlement avoids the risk and cost of a trial and provides Settlement benefits to Settlement Class Members (defined below). The Settlement Class Representatives in the Actions, the plaintiffs in the Related Actions and their lawyers think that the Settlement is in the best interests of all Settlement Class Members and that it is fair, reasonable, and adequate.

### B. WHO IS INCLUDED IN THE SETTLEMENT?

To be affected by the proposed Settlement, you have to be a Settlement Class Member.

#### 3. How do I know if I am part of the Settlement? What is the definition of Settlement Class Members?

A **Settlement Class Member** is a member of the Settlement Class. The **Settlement Class**, which has been certified or authorized by the Ontario Superior Court of Justice and the Superior Court of Québec for settlement purposes only, is defined as:

All Persons resident in Canada other than Excluded Persons, who, at any time on or before the **Recall Announcement Date** of the **Recall(s)** applicable to their **Subject Vehicles**, owned, purchased, and/or leased a **Subject Vehicle** in any of the provinces/territories in Canada.

“**Subject Vehicles**” means the GM motor vehicles subject to the **Recalls** as specifically defined by the vehicle identification numbers (VINs) ~~provided by GM to the Settlement Administrator.~~ provided by GM to the Settlement Administrator.

The “**Recalls**” and the “**Recall Announcement Date**” are as follows:

	Make, Model and Model Year*	GM Recall Number	Transport Canada Recall Number	Recall Announcement Date
<b>Delta Ignition Switch Recall</b>	2005-2010 Chevrolet Cobalt 2006-2011 Chevrolet HHR 2007-2010 Pontiac G5	13454	2014-038	September 30, 2014
	2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit	14063	2014-060	
	2006-2010 Pontiac Solstice 2003-2007 Saturn Ion 2007-2009 Saturn Sky	14092	2014-101	
<b>Key Rotation Recall</b>	2005-2009 Buick Allure 2006-2011 Buick Lucerne 2004 Buick Regal 2003-2014 Cadillac CTS 2000-2005 Cadillac Deville 2006-2011 Cadillac DTS 2004-2006 Cadillac SRX 2000-2013 Chevrolet Impala 2000-2007 Chevrolet Monte Carlo 1997-2005 Chevrolet Malibu	14172	2014-273	November 30, 2014

	1999-2004 Oldsmobile Alero 1998-2002 Oldsmobile Intrigue 1999-2005 Pontiac Grand Am 2004-2008 Pontiac Grand Prix	14497		
		14299	2014-246	
		14350	2014-284	
<b>Camaro Knee-Key Recall</b>	2010-2014 Chevrolet Camaro	14294	2014-243	October 31, 2014
<b>Electric Power Steering Recall</b>	2005-2010 Chevrolet Cobalt 2009-2010 Chevrolet HHR 2004-2006 / 2008-2009 Chevrolet Malibu 2004-2006 Chevrolet Malibu Maxx 2007-2010 Pontiac G5 2006 Pontiac G5 Pursuit 2005-2006 Pontiac Pursuit 2005-2006 / 2008-2009 Pontiac G6 2008-2009 Saturn Aura 2004-2007 Saturn Ion	14115	2014-104	February 28, 2015
		14116		
		14117		
		14118		

\*Only those vehicles with a vehicle identification number that is subject to one or more of the above Recalls are included in the Settlement as a Subject Vehicle. Visit [\[settlement website\]](#) to see if your vehicle qualifies.

The Recall Announcement Date is a certain date that is the end of the month following the month of GM's last initial notification to owners/lessees of each Recall.

Go to [\[settlement website\]](#) or call [\[phone number established by Settlement Administrator\]](#), to see if your GM vehicle is covered by the Settlement. Have your vehicle identification number ready.

The Settlement Class is comprised of the four Subclasses below (the "Subclasses"):

- Subclass 1: The Delta Ignition Switch Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-038, 2014-060 and 2014-101.
- Subclass 2: The Key Rotation Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall Nos. 2014-273, 2014-246, 2014-284.
- Subclass 3: The Camaro Knee-Key Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-243.
- Subclass 4: The Electric Power Steering Subclass, comprised of those Settlement Class Members who own(ed), purchase(d), and/or lease(d) a Subject Vehicle subject to Transport Canada Recall No. 2014-104.

Settlement Class Members with a Subject Vehicle covered by both the Delta Ignition Switch Recall and the Electric Power Steering Recall shall be members of both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass and shall be eligible to receive settlement payments allocated to both Subclasses. Settlement Class Members with multiple Subject Vehicles shall be members of the Subclasses applicable to each of their respective Subject Vehicles.

Québec law requires the following information to be provided to Québec Settlement Class members. For the Québec Actions, the main question of fact and law authorized by the Court for settlement purposes is:

Are the Respondents liable to pay compensatory damages to Group Members stemming from the defect?

For the Québec Actions, the principal conclusions sought by the Settlement Class Representative, and authorized by the Court for settlement purposes, are:

CONDEMN Defendants to pay damages to the Group Members equivalent to the amount of loss of (...) value of the Subject Vehicle (...);

CONDEMN Defendants to reimburse to the Group Members any (...) out of pocket expenses in relation to the defect or repair thereof;

CONDEMN Defendants to pay compensatory damages to the Group Members for the loss of use and enjoyment of the Subject Vehicles, trouble, inconvenience, and loss of time;

## C. THE TERMS OF THE SETTLEMENT AGREEMENT

### 4. What am I giving up under the Settlement Agreement?

Under the proposed Settlement, each Settlement Class Member will be deemed to have waived, released, and promised not to sue for any economic loss claims that the Settlement Class Member has or may have in the future, directly or indirectly, against New GM, GM Canada and certain other released parties (the “Released Parties”). ~~Further, all class~~

The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage ~~arising from an accident involving a Subject Vehicle~~ relating to the 2014 recalls. These class claims have been discontinued ~~or removed. However, Settlement Class Members will not waive or release~~ from the class actions as such claims may be pursued individually (not in a class action) if permitted in your province, and any such individual claims ~~they may have against the Released Parties for personal injury (and related family/dependent claims), wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle~~ will not be waived or released by the approval of the Settlement. As a result of the discontinuance in the class actions, the limitation periods (legal deadlines for commencing a lawsuit) are no longer suspended and began to run again. After the limitation period, your right to sue will be extinguished. Get advice from your own lawyer about legal deadlines for individual lawsuits.

If approved by the Courts, the Settlement will prohibit Settlement Class Members from suing or being part of any other lawsuit or claim against the Released Parties that relates to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles (the “**Released Claims**”). The specifics of the Released Claims are set out in more detail in the Settlement Agreement, which is posted at [settlement website]. The Settlement Agreement describes the Released Claims in specific legal terminology. Talk to your own lawyer if you have questions about the Released Claims or what it means.

## 5. What ~~am~~might I be receiving under the Settlement Agreement?

The Settlement Agreement allows Settlement Class Members to submit a claim to the Settlement Administrator, and, if eligible, receive a payment from the Settlement Fund Amount, as described below.

### i. The Settlement Fund Amount

In exchange for Settlement Class Members’ release of the Released Claims, there will be a CA\$12 million settlement fund established (the “**Settlement Fund Amount**”). Settlement payments to eligible Settlement Class Members will only occur if both (i) the Approval Orders of the Ontario Court and the Québec Court and (ii) the orders dismissing the Related Actions with prejudice and without costs become Final, among other orders, and after Administrative Expenses (such as for claims administration) are deducted.

### ii. How will payments for eligible claims be allocated?

A “Net Settlement Amount” shall be determined by deducting Administrative Expenses, taxes and any honoraria payments from the Settlement Fund Amount. The entire Net Settlement Amount shall be distributed to Settlement Class Members with claims determined to be eligible by the Settlement Administrator. Members of the Delta Ignition Switch Subclass shall receive twice (2x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses, and members of the Key Rotation Subclass shall receive one-and-a half times (1.5x) the amount paid to members of the Camaro Knee-Key and Electric Power Steering Subclasses. An eligible Settlement Class Member with a Subject Vehicle subject to both the Delta Ignition Switch Recall and the Electric Power Steering Recall will receive both the Delta Ignition Switch Subclass and the Electric Power Steering Subclass settlement payments. The calculation process for the Net Settlement Amount is set out in the Settlement Agreement.

### iii. How do I get a payment from the Net Settlement Amount?

**The claims process has not yet begun and will not begin until after the Courts approve the Settlement.** If the Settlement is approved by the Courts at the Settlement Approval Hearings, you ~~must~~will be able to file a Claim Form online or by mail postmarked by the deadline posted on the Settlement Website to receive a payment. Claims may be submitted online at [settlement website] or by mail to [Settlement Administrator’s address]. For certain Settlement Class Members, both a complete Claim Form and additional documentation may be required to establish eligibility. Instructions are on the Claim Form and on the Settlement Website. You may

register your email or mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

If you fail to submit a Claim Form by the required deadline, you will not receive a payment. Sending in a Claim Form late will be the same as doing nothing.

## D. LEGAL REPRESENTATION

### 6. Do I have a lawyer in this Settlement?

Certain lawyers representing Settlement Class Representatives (“Co-Lead Counsel”), listed below, negotiated the Settlement Agreement with New GM and GM Canada. Co-Lead Counsel will file the motions in the Ontario Court and the Québec Court seeking the approval of the Settlement. You will not be charged for services performed by Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Co-Lead Counsel, they can be reached at:

<p>Rochon Genova LLP  Attention: <del>Ron Podolny</del>  <del>rpodolny</del> <a href="mailto:Joan.Sloan@rochongenova.com">Joan Sloan</a>  <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a>  Tel: 1-866-881-2292 or local (416) 363-1867  121 Richmond Street West  Suite #900  Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.  Attention: Megan B. McPhee  mbm@complexlaw.ca  Tel: (416) 596-1414  1203-1200 Bay Street  Toronto, ON M5R 2A5</p>
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~~Note that a Quebec Settlement Class members may seek authorization from the Superior Court of Québec to intervene if the intervention is considered helpful to the Class. A member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.~~

### 7. How will the plaintiffs’ lawyers be paid?

Co-Lead Counsel will ask the Ontario Court and the Québec Court, on behalf of all plaintiffs’ counsel who represent any person claiming in the Actions and/or the Related Actions, for approval of up to a total of CA\$4,397,500.00 as the payment by the Defendants for plaintiffs’ counsel fees, expenses, costs, disbursements and associated taxes (the “**Maximum Plaintiffs’ Counsel Fee Amount**”). This application for plaintiffs’ counsel fees will need to be approved by the Courts.

The Courts may award less than the amount requested by Co-Lead Counsel. However, under no circumstances shall the Defendants pay any amount greater than the Maximum Plaintiffs' Counsel Fee Amount, and, if the Courts award less than the Maximum Plaintiffs' Counsel Fee Amount, then Defendants shall pay only the lesser amount.

This amount awarded by the Courts for plaintiffs' counsel fees, expenses, costs, disbursements and associated taxes will not come out of the Settlement Fund Amount described above.

No class member other than the Settlement Class Representatives or an intervenor (in Quebec [\(see below\)](#)) will be required to pay legal costs arising from the class actions.

## E. OPTING OUT OF THE SETTLEMENT

### 8. How do I opt out or exclude myself from the Settlement?

If you do not want to be a member of the Settlement Class and you do not want to participate in the Settlement, you can exclude yourself from--or opt out of--the Settlement Class by sending a ~~written election to~~ an opt out ~~of the Settlement~~ form by mail, courier, or e-mail so that it is received on or before [date], 2024.

The ~~written election to~~ opt out form must include:

- a. Your full name, mailing address, telephone number and email;
  - b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a ~~statement~~ an attestation that you are not an Excluded Person;
  - c. The make, model, model year, and VIN of the Subject Vehicle(s); and
  - d. Your address(es) at the time you owned or leased the Subject Vehicle(s); ~~and~~.
- ~~e. A clear statement that you want to be excluded from or~~ An opt ~~out of~~ form is available on the Settlement ~~Class and the Settlement Website at~~ Website at [website link].

For **non-Quebec residents**, the ~~written election to~~ opt out form should be sent to the Settlement Administrator through email to [settlement email address], or by mail or courier to [address of Settlement Claims Administrator].

**If you are a Quebec resident**, your opt out ~~election may~~ form should be sent to the following address:

Clerk of the Superior Court of Quebec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

### 9. What happens if I opt out/exclude myself from the Settlement Class?

If you exclude yourself from the Settlement Class, you will not get any money or benefits from this Settlement. By excluding yourself, however, you will retain your individual right to sue the Released Parties for the economic loss claims alleged in the Actions and Related Actions, at your own expense. Get advice from your own lawyer about legal deadlines for individual lawsuits.

## F. OBJECTING TO THE SETTLEMENT

### 10. How do I tell the Ontario Superior Court of Justice or the Superior Court of Québec I do not like the Settlement?

If you are a Settlement Class Member, and if you do not exclude yourself from the Settlement Class by opting out, you can object to the proposed Settlement if you do not like it. You can give reasons why you think the Courts should not approve any or all terms of the Settlement, and the appropriate Court will consider your objection. The Ontario Court will consider objections of all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada. The Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Quebec for the first retail sale in Canada.

To object, **non-Quebec residents** must deliver a ~~written~~ an objection form to the Settlement Administrator by email to [[settlement administrator email](#)] or by courier or mail to [[settlement administrator address](#)] so that it is received on or before [[date](#)], 2024.

**If you are a Quebec resident, your objection form should be sent by [[date](#)], 2024 to the following address:**

Clerk of the Superior Court of Quebec  
 Montréal Court house  
 Re: *Michael Gagnon v. General Motors of Canada et. al.*  
 500-06-000687-141 | 500-06-000729-158  
 1 Notre-Dame Street East, Room 1.120  
 Montréal, Québec H2Y 1B5

Objections received after this date will not be considered.

Your signed objection form must include:

- a. Your full name, mailing address, telephone number and email;
- b. Proof that you are a Settlement Class Member, including proof of the dates when you owned or leased the Subject Vehicle(s), and a statement that you are not an Excluded Person;
- c. The make, model, model year, and VIN of the Subject Vehicle(s);
- d. A ~~brief~~ statement of the nature of and reason for the objection to the Settlement, including all factual and legal grounds for the objection, and
- e. Whether you intend to appear in person/by videoconference, if available, or through legal counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

[An objection form is available on the Settlement Website at \[\[website link\]\(#\)\].](#)



If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the Settlement Approval Hearings.

## G

Note that you do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.

### G. INTERVENOR STATUS

#### 11. Can I intervene as a party in the file?

Note that Quebec Settlement Class members may seek permission from the Superior Court of Québec to **intervene** if the intervention is considered helpful to the Class. A Quebec Settlement Class member who intervenes may be required to submit to a pre-trial examination at the request of the Defendants. A Settlement Class member who does not intervene may not be subject to a pre-trial examination unless the Court considers that it would be useful for its determination of the issues of law or fact to be dealt with collectively. **It is not necessary to intervene to object to the Settlement Agreement (see above) or to attend the Approval Hearings.** Quebec Settlement Class members who choose to intervene and who wish to be represented by a lawyer will have to hire their own lawyer. Quebec Settlement Class members are Settlement Class Members whose Subject Vehicles are identified based on reasonably available information from GM as having been first retail sold in Quebec.

### H. THE APPROVAL HEARINGS IN COURT

#### 12. ~~11.~~ **When and where will the Courts decide whether to approve the Settlement?**

The Ontario Superior Court of Justice and the Superior Court of Québec will hold Settlement Approval Hearings to decide whether to approve the proposed Settlement Agreement. The Settlement Approval Hearings will be held as follows:

- The Ontario Superior Court of Justice will hold a Settlement Approval Hearing at 130 Queen Street West, Toronto, ON M5H 2N5 on [date], 2024 at [time] a.m. (Eastern Time); and
- The Superior Court of Québec will hold a Settlement Approval hearing at the Montreal Courthouse, 1 Notre-Dame St. East, Montreal, Quebec H2Y 1B6 on [date], 2024 at [time] a.m. (Eastern Time).

The hearings may move to a different date, time, or location, or may be held virtually through videoconferencing. Please note that the date or location of either hearing may be changed without notice other than an update on the Settlement Website. Settlement Class Members are encouraged to visit the Settlement Website at [settlement website] or call [settlement phone number established by Settlement Administrator] for the most current information.

At these hearings, the Courts will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Co-Lead Counsel will answer any questions the Courts may have about the Settlement. If there are objections, the Courts will consider them at the hearings. After the hearings, the Ontario Court will decide whether to approve the Settlement with respect to all Settlement Class Members other than those whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada, and the Quebec court will consider objections of Settlement Class Members whose Subject Vehicles were released to an authorized GM dealership located in Québec for the first retail sale in Canada. There may be appeals after either Court's decision. There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when and if the Settlement will become Final [and when the claims period will start](#). Please check the Settlement Website [[settlement website link](#)]. You may register your email and mailing address on the Settlement Website to ensure you receive notice of court approval and the claim deadline.

**13. ~~12.~~ Do I have to go to the hearings?**

No. Co-Lead Counsel will appear at both Settlement Approval Hearings in support of the Settlement and will answer any questions asked by the Courts. However, you are welcome to attend the hearings at your own expense, or through videoconferencing if the Settlement Approval Hearings are heard virtually.

If you ~~send a written~~ [object by sending an](#) objection ~~to the Settlement Administrator~~ [form](#), you do not have to come to court to talk about it. So long as you ~~mailed~~ [sent](#) your ~~written~~ [objection form](#) on time and complied with the other requirements for a proper objection set forth above, the appropriate Court will consider it. You may attend or you may pay your own lawyer to attend, but it is not required.

**14. ~~13.~~ May I speak at the hearings?**

Yes. If you submitted a proper ~~written~~ objection ~~to the Settlement Administrator~~ [form](#), you or your lawyer may, at your own expense, come to the appropriate Settlement Approval Hearing and speak. If you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold in Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Québec Court, and if you owned or leased a Subject Vehicle that was identified based on reasonably available information as having been first retail sold outside of Québec and wish to address the Court in respect of your objection, then you will attend the hearing before the Ontario Court. [You do not need to obtain intervenor status to object to the Settlement Agreement and present your observations to the Courts during the Approval Hearings.](#)

**H.I. IF YOU DO NOTHING**

**15. ~~14.~~ What happens if I do nothing at all?**

You have the right to do nothing. If you do nothing, including not submitting a claim when the claims process begins, you will not get any Settlement benefits. In addition, you can no longer be

part of a class action or any other lawsuits against the Released Parties involving the Released Claims in this Settlement. Specifically, after approval by both Courts is Final, the Settlement will prohibit you from suing or being part of any other lawsuit or claim against the Released Parties that relate to the subject matter of the Actions, Related Actions and the Recalls, including, but not limited to, those relating to the design, manufacturing, advertising, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. However, Settlement Class Members will not waive or release any individual claims they may have against the Released Parties for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle. Get advice from your own lawyer about legal deadlines for individual lawsuits.

#### **IJ. GETTING MORE INFORMATION**

##### **16. ~~15.~~ How do I get more information about the Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, the Approval Orders, and any additional orders entered by the Courts pertaining to the Settlement, all of which are available (or will be available once entered by the Courts) on the Settlement Website at [[website](#)]. If there is a conflict between this Notice and the Settlement Agreement, the Settlement Agreement applies.

<b>YOU MAY OBTAIN ADDITIONAL INFORMATION BY:</b>		
<b>VISITING THE SETTLEMENT WEBSITE</b>	Please go to [ <a href="#">website</a> ], where you will find answers to common questions and other detailed information to help you.	
<b>CALL THE SETTLEMENT PHONE NUMBER</b>	Call [ <a href="#">phone number established by Settlement Administrator</a> ].	
<b>CONTACT CLASS COUNSEL</b>	<p>Rochon Genova LLP</p> <p>Attention: <del>Ron Pedolny</del> <del>rpodolny</del> <a href="#">Joan Sloan</a> <a href="mailto:jsloan@rochongenova.com">jsloan@rochongenova.com</a> Tel: 1-866-881-2292 or local (416) 363-1867</p> <p>121 Richmond Street West Suite #900 Toronto, ON M5H 2K1</p>	<p>Kim Spencer McPhee Barristers P.C.</p> <p>Attention: Megan B. McPhee <a href="mailto:mbm@complexlaw.ca">mbm@complexlaw.ca</a> Tel: (416) 596-1414</p> <p>1203-1200 Bay Street Toronto, ON M5R 2A5</p>

Document comparison by Workshare Compare on March 15, 2024 3:59:00 PM

<b>Input:</b>	
Document 1 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/Working folder/2024-02-06 Revised Notice Material - Long Form.docx
Description	2024-02-06 Revised Notice Material - Long Form
Document 2 ID	file:///C:/Users/aleray/OneDrive - Borden Ladner Gervais LLP/Working folder/D1 - 2024-03-15 - Modified Long-Form Notice.docx
Description	D1 - 2024-03-15 - Modified Long-Form Notice
Rendering set	Standard

<b>Legend:</b>	
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<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	123
Deletions	85
Moved from	6
Moved to	6
Style changes	0
Format changes	0
Total changes	220

**EXHIBIT E – OPT-OUT FORM**

<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al., Ontario Superior Court of Justice Action No. CV-14-502023-00CP</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000687-141</i>
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al., Superior Court of Québec Action No. 500-06-000729-158</i>

**OPT-OUT FORM**

ONLY SUBMIT THIS FORM IF YOU **DO NOT** WANT TO PARTICIPATE IN AND CLAIM BENEFITS UNDER THE SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO EXCLUDE YOURSELF** from the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at ([settlement website](#)).

**1. REQUESTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an opt-out request.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are opting out of the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

- Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:
- authorized GM dealers;
  - daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);
  - governmental or quasi-governmental bodies;
  - the judicial officers presiding over the Actions\* and Related Actions\* and their immediate family members;
  - Actions Counsel\* as well as members of their staff and immediate family;
  - all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and
  - all individuals and entities that have validly opted-out of the Settlement.

\* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the *Oberski* and *Gagnon* lawsuits as well as lawsuits filed in other provinces.

<input type="checkbox"/>	<b>I CONFIRM THIS OPT-OUT REQUEST IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b>
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**2. VEHICLE IDENTIFICATION**

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

**3. PROOF OF OWNERSHIP**

For each of the vehicles identified in item 3, **attach a copy of your proof of ownership**. If you own or previously owned the vehicle, please provide a copy of the vehicle’s registration certificate or bill of sale. If you lease or previously leased the vehicle, please provide a copy of the lease agreement relating to the vehicle.

**4. I WISH TO OPT OUT**

Check the box below to confirm your intention to opt out of the proposed settlement.

<p>I wish to be excluded from the General Motors Ignition Switch, Key Rotation, Camaro Knee-Key &amp; Electric Power Steering Economic class action settlement and am opting out.</p> <p><input type="checkbox"/> <b>I OPT OUT</b></p>
--

**5. SIGNATURE**

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY MM DD

**6. SUBMISSION**

If you wish to opt-out of the proposed settlement, your completed opt-out form MUST be received on or before (**opt-out deadline**).

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Quebec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your competed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">JND Legal Administration (Settlement Administrator Mailing Address) (Settlement Administrator Email Address)</p>
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**EXHIBIT F – OBJECTION FORM**



<i>EDWARD OBERSKI et al. v. GENERAL MOTORS LLC et al.,</i> Ontario Superior Court of Justice Action No. CV-14-502023-00CP
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000687-141
<i>MICHAEL GAGNON v. GENERAL MOTORS OF CANADA et al.,</i> Superior Court of Québec Action No. 500-06-000729-158

**OBJECTION FORM**

ONLY SUBMIT THIS FORM IF YOU WISH TO OBJECT TO THE PROPOSED SETTLEMENT.

**Instructions:** Fill out and submit this form by mail, courier or email **ONLY IF YOU WISH TO OBJECT** to the proposed General Motors Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic class action settlement in Canada. Please see the bottom of this form for instructions on how to submit this form based on your place of residence. For further information, please visit the settlement website at ([settlement website](#)).

**1. OBJECTOR IDENTIFICATION**

Provide the following information about the person (*i.e.*, the current or former vehicle owner or lessee) submitting or, if applicable, on whose behalf you are submitting, an objection.

Last Name:		First Name:		Middle Initial:
Address:			Suite Number:	
City:	Province:	Postal Code:	Country:	
Phone Number:		Email Address (if available):		

If you are objecting to the proposed settlement on someone else’s behalf, please provide the information requested above and attach a copy of your power of attorney, court order or other authorization that allows you to represent this person.

<p>Certain individuals and entities are prohibited from participating in this Settlement. These Excluded Persons are:</p> <ul style="list-style-type: none"> <li>• authorized GM dealers;</li> <li>• daily rental fleet purchasers, owners and lessees (that is a company which regularly engages in the rental of passenger cars without drivers to the general public on a daily or weekly basis and which purchases or leases vehicles for the purpose of such rentals);</li> <li>• governmental or quasi-governmental bodies;</li> <li>• the judicial officers presiding over the Actions* and Related Actions* and their immediate family members;</li> <li>• Actions Counsel* as well as members of their staff and immediate family;</li> <li>• all individuals and entities that have previously released their economic loss claims that are in any way, directly or indirectly, related to the issues corrected by the Recalls; and</li> <li>• all individuals and entities that have validly opted-out of the Settlement.</li> </ul> <p>* The terms Actions, Related Actions and Actions Counsel are defined in the Settlement Agreement located on the Settlement Website, and include the <i>Oberski</i> and <i>Gagnon</i> lawsuits as well as lawsuits filed in other provinces.</p>	
<input type="checkbox"/>	<p><b>I CONFIRM THIS OBJECTION IS NOT MADE ON BEHALF OF ANY OF THE ABOVE-LISTED EXCLUDED PERSONS</b></p>

**2. VEHICLE IDENTIFICATION**

Please provide the following information concerning the Subject Vehicle that was bought or leased in Canada. If there is more than one vehicle, please provide the following information for other vehicles in an attachment.

<b>Vehicle Make and Model:</b>	
<b>Model Year of Vehicle:</b>	<b>Vehicle Identification Number (VIN):</b>

**3. I WISH TO OBJECT**

Provide in the box below your objection to the proposed settlement. You can also provide your objection in an attachment.

**4. SETTLEMENT APPROVAL HEARINGS**

The Superior Court of Québec will hold a settlement approval hearing in person at the Montreal Courthouse at 1 Notre-Dame Street East, Montreal and by video conference on (settlement approval hearing date).			
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
The Ontario Superior Court of Justice will hold a settlement approval hearing by video conference from 130 Queen Street West, Toronto on (settlement approval hearing date).			
Do you intend to appear at this hearing?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
If “Yes”, will you be appearing through a lawyer?	<input type="checkbox"/>	Yes	<input type="checkbox"/> No

If you will be appearing through a lawyer, please provide the following personal identification information for your lawyer. If more than one lawyer represents you, please provide the following information for other lawyers in an attachment.

Lawyer's Last Name:		Lawyer's First Name:	
Lawyer's Mailing Address:			Suite Number:
City:	Province/State:	Postal Code/Zip Code:	Country:
Lawyer's Phone Number:	Lawyer's Email Address:		Lawyer's Law Firm Name:

**5. SIGNATURE**

\_\_\_\_\_  
Your Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
YYYY / MM / DD

**6. SUBMISSION**

If you wish to object to the proposed settlement, your completed objection form MUST be received on or before (objection deadline).

<p><b>IF YOU ARE A RESIDENT OF THE PROVINCE OF QUÉBEC</b>, your completed objection form should be sent by mail or courier to the following address:</p> <p style="text-align: center;">Clerk of the Superior Court of Quebec Montréal Court house Re: Michael Gagnon v. General Motors of Canada et. al. 500-06-000687-141   500-06-000729-158 1 Notre-Dame Street East, Room 1.120 Montréal, Québec H2Y 1B5</p>	<p><b>IF YOU ARE A RESIDENT OF ANY OTHER PROVINCE OR TERRITORY IN CANADA, OR ELSEWHERE</b>, your completed objection form may be sent by mail, courier or email to the following address:</p> <p style="text-align: center;">JND Legal Administration (Settlement Administrator Mailing Address) (Settlement Administrator Email Address)</p>
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**EXHIBIT G – SIMPLIFIED PRINT NOTICE**

# If You Owned or Leased a **GM Vehicle** that Was Subject to Certain **2014 Recalls**, You May Have Rights and Choices in a Proposed Settlement

## YOUR LEGAL RIGHTS AND OPTIONS

### **Do Nothing**

- ▶ Submit a claim for benefits, if/after the Settlement is approved
- ▶ Be bound by the Settlement, if approved

### **Opt-Out from the Settlement by [date], 2024**

- ▶ Receive no payment, if/when the Settlement is approved
- ▶ Keep your right to sue GM for economic loss

### **Object to the Settlement by [date], 2024**

- ▶ You can only object if you do not opt-out of the Settlement

### **Attend the Approval Hearing**

- ▶ Before the Ontario Superior Court of Justice on [month/date], 2024
- ▶ Before the Superior Court of Québec on [month/date], 2024

### **LEARN MORE / REGISTER FOR UPDATES**



[settlement website]

[TFN]

*Pour une notice en Français, visitez [settlement website]*

**EXHIBIT H – STANDARD PRINT NOTICE**

**GM Ignition Switch, Key Rotation, Camaro Knee-Key & Electric Power Steering Economic Settlement Information**

**1392**

**If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement.**

*Pour une notice en Français, visitez [settlement website].*

**The purpose of this Notice is to inform you of the certification/authorization of the class actions, the proposed Settlement and your legal rights.** You were sent this Notice because you may be a Settlement Class Member.

The Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”) have certified/authorized for settlement purposes class actions seeking compensation for economic loss claims by current or former owners or lessees of certain GM vehicles that were recalled in 2014. The Courts will consider the proposed nationwide class settlement in upcoming hearings. The recalls involved the Delta ignition system, key rotation, Camaro knee-key and electric power steering. Settlement Class Representatives claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC (“New GM”) and General Motors of Canada Company (formerly General Motors of Canada Limited) (“GM Canada”) (collectively, “GM”) deny these allegations.

**Who Is Included?**

The proposed Settlement Class, which has been certified or authorized by the Courts for settlement purposes only, includes (paraphrased) all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM’s announcement of certain 2014 Recalls, owned, purchased, and/or leased a vehicle subject to any of the Recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included. Go to [settlement website] or call [phone number established by Settlement Administrator], to see if your GM vehicle is covered by the Settlement.

**What Does the Settlement Provide?**

If approved, a settlement fund of CA\$12 million will be established. Payment amounts to eligible Settlement Class Members will vary depending on which recalls apply to their vehicles, the amount of administrative expenses, and the number of eligible Settlement Class Members who file claims. Plaintiffs’ counsel fees and expenses will be separately paid by GM and will not be deducted from the settlement fund. The proposed Settlement does not apply to claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage relating to the 2014 recalls. These class claims have been discontinued from the class actions, but any such individual claims will not be released by the approval of the Settlement. Get advice from your lawyer about legal deadlines for individual lawsuits.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

**Option 1: Participate in the Settlement – Do nothing for now**

If you are satisfied with the Settlement, you do not have to do anything for now. You will be able to submit a claim for eligible benefits if/after the Settlement is approved. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

**Option 2: Opt-out of the Settlement**

You may **opt-out** of the Settlement, in which case you will not be eligible to receive any benefits. You must take this step if you wish to exclude yourself and preserve your individual right to sue GM for economic loss. Get advice from your lawyer about legal deadlines for individual lawsuits. Your opt-

out form (see below) must be sent by [date], 2024. You may not opt-out *and* object.

**IF YOU DO NOT OPT-OUT AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.**

**Option 3: Object to the Settlement**

If you do not opt-out and if you do not like the Settlement, you may **object** to the Settlement before the Courts consider whether to approve it and, if you wish, attend an approval hearing. Your objection form (see below) must be sent by [date], 2024.

**Opt-Out Form, Objection Form and their submission**

The opt-out form, objection form and further information are available at [settlement website]. Non-Quebec residents should send their opt-out form or objection form to the Settlement Administrator (see below). If you are a Quebec resident, your objection or opt-out form should be sent to the following address:

Clerk of the Superior Court of Quebec  
Montréal Court house  
Re: Michael Gagnon v.

General Motors of Canada et al.  
500-06-000687-141 | 500-06-000729-158  
1 Notre-Dame Street East, Room 1.120  
Montréal, Québec H2Y 1B5

**Approval Hearings**

The Settlement must be approved by the Courts to become effective. Hearings to consider whether to approve the Settlement, and, potentially, plaintiffs’ counsel fees and expenses will take place before the Ontario Superior Court of Justice on [month/date], 2024 at [time] a.m. eastern time; and the Superior Court of Québec on [month/date], 2024 at [time] a.m. eastern time. You may register your email or mailing address at [Settlement Website] to ensure you receive notice of court approval and the claims deadline.

You may appear at the Approval Hearings, either yourself or through a lawyer hired by you, but you do not have to do so.

**YOU MAY SEEK ADDITIONAL INFORMATION**

**Contact Class Counsel**

Rochon Genova LLP  
Attention: Joan Sloan  
jsloan@rochongenova.com  
Tel: 1-866-881-2292 or local (416) 363-1867

Kim Spencer McPhee Barristers P.C.  
Attention: Megan B. McPhee  
mbm@complexlaw.ca  
Tel: (416) 596-1414

**Settlement Website**

See [settlement website] for the Long-Form Notice, important documents and forms, answers to common questions and other detailed information to help you.

**Settlement Administrator**

The Settlement Administrator can be reached at [email/phone/address].

**EXHIBIT I – DIGITAL WEBSITE/SOCIAL MEDIA ADVERTISEMENTS**

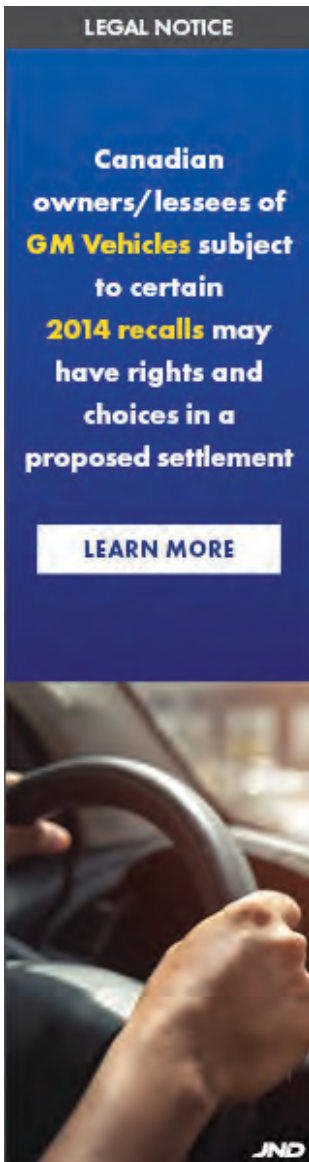


# Google Display Network Ads - Certification

728 x 90



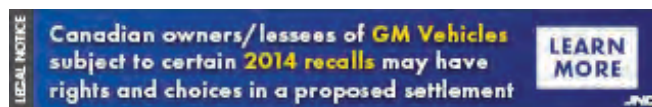
160 x 600



300 x 250



320 x 50



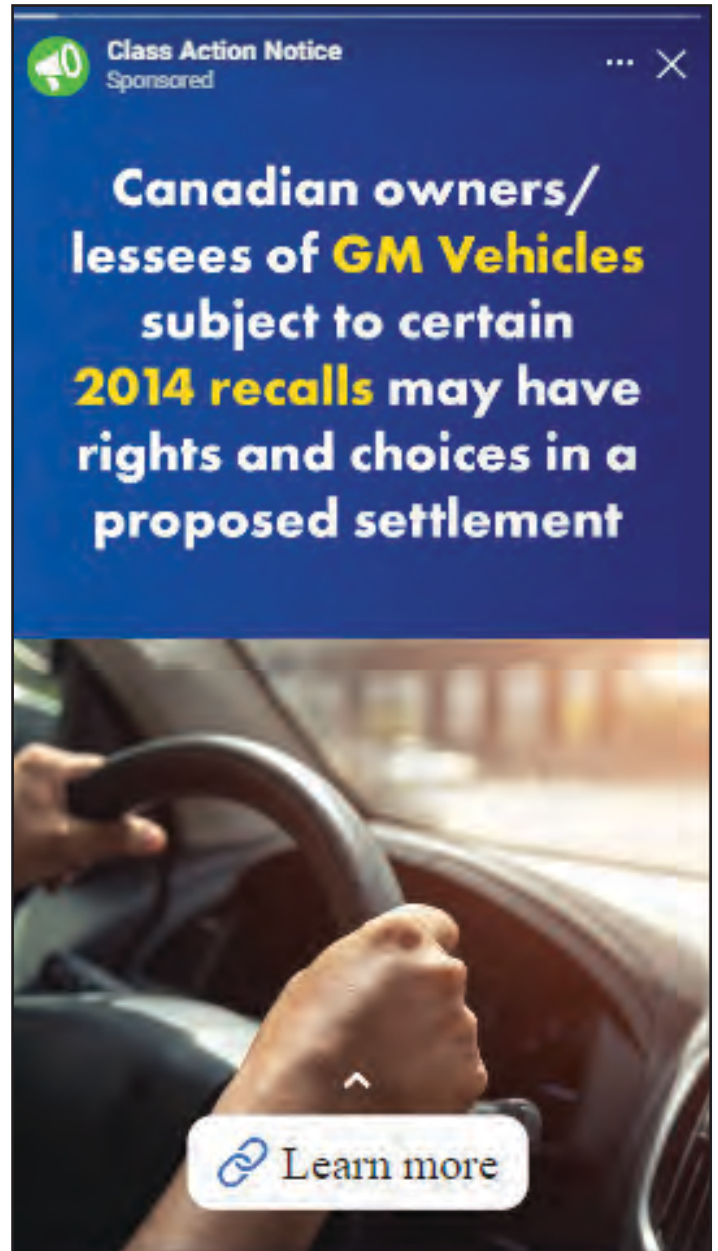
# Facebook Ads – Certification

## Facebook News Feed



This image shows a Facebook News Feed advertisement. At the top left, there is a green megaphone icon, the text "Class Action Notice", and "Sponsored" with a small logo. To the right are a close button (X) and a menu icon (three dots). The main visual is a photograph of a person's hands on a car's steering wheel. Below the photo is a blue banner with white text: "Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may have rights and choices in a proposed settlement". Underneath the banner is a white bar containing "sample.com" and a "Learn more" button. At the bottom, there are icons for "Like", "Comment", and "Share".

## Facebook Stories



This image shows a Facebook Story advertisement. At the top left, there is a green megaphone icon, the text "Class Action Notice", and "Sponsored". To the right are a menu icon (three dots) and a close button (X). The main visual is a photograph of a person's hands on a car's steering wheel. Overlaid on the top half of the photo is a blue banner with white text: "Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may have rights and choices in a proposed settlement". At the bottom of the story, there is a white rounded rectangle containing a blue link icon and the text "Learn more".

# CLASS ACTION ADMINISTRATION

JND's Class Action team comprises experienced legal administrators and court-acknowledged notice experts who have overseen some of the largest and most complex settlement administrations in our country's history. Led by Jennifer Keough, CEO and Co-Founder of JND, our firm has been recognized for excellence in class action claims administration every year since its founding and was named #1 Class Action Claims Administrator in 2023 for the third consecutive year by The National Law Journal. JND's consistent #1 rankings have earned the additional distinction of two inductions into the National Law Journal Hall of Fame.



## PRE-SETTLEMENT CONSULTATION

- Plan of Allocation development
- Project timeline development
- Preliminary approval hearing support
- Drafting Notice Documents
- Extensive data review and analysis



## EXPERT NOTICE PROGRAMS

- Drafting of plain language notices for direct mail, postcard and email formats
- Claim forms designed to capture complete and accurate claimant information
- Media strategy and campaign coordination for identifying unknown class members
- Search engine optimized settlement websites, which are ADA compliant and mobile-enabled, provide remote access to notice and court documents
- Member inquiry support services



## SECURE CLAIMS PROCESSING

- Tracking and verification of claimant data in JND's proprietary DayBreak claims processing system
- Case-specific database design and custom reporting
- Claims processing and opt-out processing
- Evaluation and resolution of disputed claims, duplicate claims and deficient claims



## FUND MANAGEMENT AND BENEFIT DISBURSEMENT

- Opening and reconciling of disbursement accounts
- Establishing a Qualified Settlement Fund (QSF)
- Serving as Escrow Agent
- Benefit calculation and disbursement
- Benefit distribution formats include, among others, checks, debit cards, PayPal, Venmo, and wires
- Tax withholding and reporting

## PROMINENT CASE HISTORY

- Gulf Coast Claims Facility  
\$20,000,000,000
- Deepwater Horizon Gulf Oil Spill Settlement  
\$10,000,000,000+
- WorldCom Securities Litigation  
\$6,150,000,000
- Health Republic Insurance Company and Common Ground Healthcare Cooperative v. The United States  
\$3,700,000,000
- Cobell Indian Trust Settlement  
\$3,400,000,000
- Visa MasterCard Antitrust Settlement  
\$3,050,000,000
- In re Blue Cross Blue Shield Antitrust Litigation  
\$2,670,000,000
- In re Mercedes-Benz Emissions Litigation  
\$1,500,000,000
- In re Equifax Inc. Customer Data Security Breach Litigation  
\$1,300,000,000
- In re Stryker Rejuvenate and ABG II Hip Implant Products Liab. Litig.  
\$1,000,000,000
- Air Cargo Antitrust Settlement  
\$853,000,000
- Engle Trust Fund  
\$800,000,000
- IPO Securities Litigation  
\$586,000,000
- Loblaw Canadian Remediation Program  
\$300,000,000
- In re Signet Jewelers Limited Securities Litigation  
\$240,000,000
- USC Student Health Center Litigation  
\$215,000,000
- In re Snap Inc. Securities Litigation  
\$185,000,000
- In re Akorn, Inc. Data Integrity Securities Litigation  
\$155,000,000
- In re Equifax Inc. Securities Litigation  
\$149,000,000
- Cecil v. BP America Production Company  
\$147,000,000
- In re Navistar MaxxForce Engines Marketing, Sales Practices and Products Liability Litigation  
\$135,000,000
- In re General Motors LLC Ignition Switch Litigation  
\$121,100,000
- Fitzgerald Farms, LLC v. Chesapeake Operating, Inc.  
\$119,000,000
- Fresno County Employees Retirement Association, et al. v. comScore Inc., et al.  
\$110,000,000
- Chieftain Royalty Company v. XTO Energy, Inc.  
\$80,000,000
- In re Yahoo! Inc. Securities Litigation  
\$80,000,000
- JPM Stable Value Fund  
\$75,000,000
- UCLA Heaps Settlement  
\$73,000,000
- Beltran, et al. v. InterExchange, Inc., et al.  
\$65,500,000
- Allagas, et al. v. BP Solar International, Inc., et al.  
\$65,330,000

*All cases listed above were handled directly by one of the Founders of JND or by another senior JND employee still working for the company.*

CONTACT: [JNDLA.com](http://JNDLA.com) 800.207.7160 info@JNDLA.com

CONNECT: [in](https://www.linkedin.com/company/jnd-legal-administration) /jnd-legal-administration [tw](https://twitter.com/jnd_la) /jnd\_la

**JND**





**GM Canadian Ignition Switch Economic  
Settlement  
Certification Notice Statistics  
(as of July 24, 2024)**

<b>EMAILED NOTICE (Commenced May 20, 2024)</b>	
Certification Email Notices to Class Members:	702,631
<ul style="list-style-type: none"> <li>• Undelivered Emails:</li> </ul>	147,336
<b>DIGITAL MEDIA (May 20, 2024 – June 16, 2024)</b>	
Total Ad Impressions Delivered (out of 74,305,050):	74,842,094
<ul style="list-style-type: none"> <li>• Google Display Network Impressions Delivered:</li> </ul>	72,774,070
<ul style="list-style-type: none"> <li>• Facebook Impressions Delivered:</li> </ul>	2,068,024
<b>REGISTERED FOR UPDATES</b>	
Total Registered for Updates:	2,192
<b>EXCLUSIONS (Deadline: July 19, 2024)</b>	
Exclusions Received:	6
<b>OBJECTIONS (Deadline: July 19, 2024)</b>	
Objections Received:	0
<b>SETTLEMENT WEBSITE (<a href="http://www.GMIgnitionSwitchSettlement.ca">www.GMIgnitionSwitchSettlement.ca</a>)</b>	
Total Unique Visitors:	74,806
Total Views:	133,370
<b>TELEPHONE (1-888-995-0291)</b>	
Total IVR Calls:	385

**If You Owned or Leased a GM Vehicle that was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement**

Seattle/May 20, 2024/PR Newswire

A proposed class settlement of economic loss claims by persons who owned or leased certain GM vehicles that were recalled in 2014 has been submitted for approval to the Ontario Superior Court of Justice and the Superior Court of Quebec. The recalls involved the Delta ignition switch, key rotation, Camaro Knee-Key and/or electric power steering. The plaintiffs claim that consumers overpaid when they bought or leased these vehicles. General Motors LLC ("New GM") and General Motors of Canada Company (formerly General Motors of Canada Limited) ("GM Canada") deny these allegations. The plaintiffs, New GM and GM Canada have agreed to a settlement to avoid the risk and cost of further litigation.

The proposed settlement class includes all persons resident in Canada (individuals, businesses and organizations) who, at any time on or before GM's announcement of the 2014 recalls, owned, purchased, and/or leased a vehicle subject to any of the recalls in any of the provinces/territories in Canada. Daily rental fleet businesses, governmental entities and certain other persons are not included in the settlement class. Go to [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca), or call 1-888-995-0291, to see if your GM vehicle is covered by the settlement.

If approved, the settlement fund will be CA\$12 million. Payment amounts to eligible settlement class members will vary depending on which recall applied to their vehicle, the amount of administrative expenses, taxes and any honoraria payments, and the number of settlement class members who file claims.

For details about the settlement, including the money that may be available to settlement class members, and your eligibility to file a claim and receive a payment, review the Long Form Notice and the Settlement Agreement available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). If the settlement is approved, you will be required to submit a claim online or by mail on or before the deadline which will be posted on the website.

Settlement class members have other options too. The settlement will not include the release of any claims for personal injury (and related family/dependent claims), wrongful death or actual physical property damage. However, if you want to keep your right to sue New GM, GM Canada and certain other released parties about the economic loss claims, you must exclude yourself from the class. If you exclude yourself, you cannot receive benefits provided by the settlement. Your exclusion request must be sent to the Settlement Administrator and postmarked on or before **July 19, 2024**. **IF YOU DO NOT EXCLUDE YOURSELF AND THE SETTLEMENT IS APPROVED, YOU WILL BE BOUND BY THE RELEASE, WAIVER AND COVENANT NOT TO SUE.** Get advice from your lawyer about deadlines for individual lawsuits.

If you stay in the settlement class, you may object to the settlement - that is, tell the Ontario

Superior Court of Justice or the Superior Court of Quebec why you don't like the settlement. Your objection must be postmarked or emailed on or before **July 19, 2024**. Information about how to exclude yourself or object to the settlement is available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). The Ontario Superior Court of Justice will hold a hearing on July 30, 2024 at 10:00 a.m. (Eastern Time) (virtual only), and the Superior Court of Quebec will hold a hearing July 31, 2024 at 9:30 a.m. (Eastern Time) (virtual and in-person), to consider whether to approve the settlement. You may appear at the hearings either yourself or through a lawyer hired by you, but you do not have to do so.

The legal fees to be paid to plaintiffs' counsel may also be approved at the hearings to approve the settlement. New GM and GM Canada have agreed to pay the legal fees and expenses of plaintiffs' counsel up to a maximum amount of CA\$4,397,500.00 to be paid separately, that is, not to be deducted from the settlement fund, and which must be approved by the Courts.

For more information, call 888-995-0291 or visit [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca). You may also contact lawyers for the Settlement Class at:

Rochon Genova LLP  
Attention: Ron Podolny  
rpodolny@rochongenova.com  
Tel: 1-866-881-2292 or local (416) 363-1867  
121 Richmond Street  
West Suite #900  
Toronto, ON M5H 2K1

Kim Spencer McPhee Barristers P.C.  
Attention: Megan B. McPhee  
mbm@complexlaw  
Tel: (416) 596-1414  
1203-1200 Bay Street  
Toronto, ON M5R 2A5

**Exhibit "E"****1401**

**Si vous avez posséd  ou lou  un  
v hicule GM vis  par certains rappels en 2014,  
vous pouvez b n ficier de droits et d'options  
dans le cadre du R glement propos **

**VOS DROITS ET OPTIONS****Ne rien faire**

- ▶ Vous pourrez soumettre une r clamation pour compensations admissibles si le R glement est approuv 
- ▶ Si le R glement est approuv , vous serez li  par la quittance, la renonciation et l'engagement de ne pas poursuivre

**S'exclure du R glement avant le  
19 juillet 2024**

- ▶ Si le R glement est approuv , vous ne serez pas admissible   des prestations
- ▶ Vous pr servez votre droit individuel de poursuivre GM pour perte  conomique

**Objecter au R glement avant le  
19 juillet 2024**

- ▶ Vous pouvez vous opposer au r glement seulement si vous ne vous excluez pas

**Compara tre aux audiences  
d'approbation**

- ▶ Devant la Cour sup rieure de justice de l'Ontario le 30 juillet 2024 (virtuel)
- ▶ Devant la Cour sup rieure du Qu bec le 31 juillet 2024 (virtuel et en personne)

**EN SAVOIR PLUS/INSCRIVEZ-  
VOUS POUR RECEVOIR LES  
DERNI RES INFORMATIONS**

[www.GMignitionSwitchSettlement.ca](http://www.GMignitionSwitchSettlement.ca)

1-888-995-0291

*For the English Notice, please visit*  
[www.GMignitionSwitchSettlement.ca](http://www.GMignitionSwitchSettlement.ca)



# If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

## YOUR LEGAL RIGHTS AND OPTIONS

### **Do Nothing**

- ▶ Submit a claim for benefits, if/after the Settlement is approved
- ▶ Be bound by the Settlement, if approved

### **Opt-Out from the Settlement by July 19, 2024**

- ▶ Receive no payment, if/when the Settlement is approved
- ▶ Keep your right to sue GM for economic loss

### **Object to the Settlement by July 19, 2024**

- ▶ You can only object if you do not opt-out of the Settlement

### **Attend the Approval Hearing**

- ▶ Before the Ontario Superior Court of Justice on July 30, 2024 (virtual only)
- ▶ Before the Superior Court of Québec on July 31, 2024 (virtual and in-person)

### **LEARN MORE / REGISTER FOR UPDATES**



[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

1-888-995-0291

*Pour une notice en Français, visitez*  
[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

## Exhibit "G"

1403

# If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

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- ▶ Before the Superior Court of Québec on July 31, 2024 (virtual and in-person)

### **LEARN MORE / REGISTER FOR UPDATES**



[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

1-888-995-0291

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[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

# Exhibit "H" If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

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- ▶ Before the Superior Court of Québec on July 31, 2024 (virtual and in-person)

## LEARN MORE / REGISTER FOR UPDATES



[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

1-888-995-0291

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[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

# If You Owned or Leased a GM Vehicle that Was Subject to Certain 2014 Recalls, You May Have Rights and Choices in a Proposed Settlement

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- ▶ Before the Superior Court of Québec on July 31, 2024 (virtual and in-person)

## LEARN MORE / REGISTER FOR UPDATES



[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

1-888-995-0291

*Pour une notice en Français, visitez*  
[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

Banner Ads

1

728 x 90



160 x 600



300 x 250



320 x 50



Facebook Ads 2

Facebook News Feed



**Class Action Notice**  
Sponsored · 🌐

Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may qualify for payment in an approved settlement

[www.gmignitionswitchsettle...](http://www.gmignitionswitchsettle...) **Learn more**

Like Comment Share

Facebook Stories



**Class Action Notice**  
Sponsored

Canadian owners/lessees of **GM Vehicles** subject to certain **2014 recalls** may qualify for payment in an approved settlement


**Learn more**



# Responsive Search Ads - Sample List

3

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 [www.gmignitionswitchsettlement.ca/](http://www.gmignitionswitchsettlement.ca/)

**GM Vehicle Settlement - Owners/Lessees May Be Affected**

Learn more about your legal rights and options, and if you qualify for payment. Affects current or former owners/lessees of GM Vehicles subject to certain 2014 recalls.

[File a Claim](#) [FAQ](#) [Key Dates](#)

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 [www.gmignitionswitchsettlement.ca/](http://www.gmignitionswitchsettlement.ca/)

**GM Vehicle Settlement - Certain 2014 Recalls Impacted**

Affects current or former owners/lessees of GM Vehicles subject to certain 2014 recalls. Learn more about your legal rights and options, and if you qualify for payment.

[Key Dates](#) [File a Claim](#) [FAQ](#)

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 [www.gmignitionswitchsettlement.ca/](http://www.gmignitionswitchsettlement.ca/)

**GM Vehicle Settlement - Owners/Lessees May Be Affected**

Affects current or former owners/lessees of GM Vehicles subject to certain 2014 recalls. Learn more about your legal rights and options, and if you qualify for payment.

[FAQ](#) · [File a Claim](#)

**Sponsored**

 [www.gmignitionswitchsettlement.ca/](http://www.gmignitionswitchsettlement.ca/)

**GM Vehicle Settlement - Owners/Lessees May Be Affected**

Learn more about your legal rights and options, and if you qualify for payment. Affects current or former owners/lessees of GM Vehicles subject to certain 2014 recalls.

[File a Claim](#) · [FAQ](#)

If You Owned or Leased a  
**GM Vehicle** that Was Subject  
to Certain **2014 Recalls**,  
You May Qualify for Benefits  
in a **CA\$12-Million Court  
Approved Settlement**

*Pour une notice en Français, visitez  
[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)*

**SUBMIT A COMPLETED CLAIM FORM  
BY [DATE], 2024**

- ▶ Submit online at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)
- ▶ Submit online using the QR code below
- ▶ Submit a paper Claim Form, available at [www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca), by mail or courier to the address indicated on the Claim Form

**LEARN MORE**



[www.GMIgnitionSwitchSettlement.ca](http://www.GMIgnitionSwitchSettlement.ca)

1-888-995-0291

**YOU MAY ALSO CONTACT LAWYERS  
FOR THE SETTLEMENT CLASS**

Rochon Genova LLP  
Attention: Pritpal Mann  
[pmann@rochongenova.com](mailto:pmann@rochongenova.com)  
Tel. 1-866-881-2292 or local (416) 363-1867

Kim Spencer McPhee Barristers P.C.  
Attention: Megan B. McPhee  
[mbm@complexlaw.ca](mailto:mbm@complexlaw.ca)  
Tel. (416) 596-1414



OBERSKI, et al.  
Plaintiffs

-and-

GENERAL MOTORS LLC, et al.  
Defendants  
Court File No.: CV-14-502023-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**  
PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD**  
**(Motion for Settlement Approval and Approval of Plaintiffs' Counsel Fees)**

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Toronto, ON M5H 2K1  
  
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