

September 3, 2014

Via Electronic Filing

Hon. Jesse M. Furman

United States District Court, Southern District of New York

RE: In Re: General Motors LLC Ignition Switch Litigation, 14-md-2543
(JMF); Sesay et al v. General Motors et al, 14-cv-6018

Your Honor:

I represent the *Sesay* Plaintiffs in the above referenced action before this Court. I am writing independently of Lead Counsel because GM and Lead Counsel have together taken a position against the interests of fellow Plaintiffs and therefore the *Sesay* Plaintiffs cannot rely on Lead Counsel to present their position.

I write on their behalf to request that the Court defer consideration of the request contained in the letter to the Court of August 29, 2014, that the *Sesay* Plaintiffs' amended complaint be stricken, or alternatively allow counsel to appear telephonically so that the *Sesay* Plaintiffs may be heard with respect to the issue. The amended complaint was filed on August 28, 2014, within twenty-one days of service of the Complaint on Non-Debtor GM.

The *Sesay* Plaintiffs do not believe that there is any basis to strike their amended pleading, which they filed as of right under FRCP 15(a). Moreover, they believe that adding the request as an agenda item a few days before the hearing is not the appropriate manner of seeking such relief. Parties wishing to request the Court to strike a pleading should do so by filing a motion for such relief. Such a procedure would grant the *Sesay* Plaintiffs a reasonable opportunity to be heard with respect to the issues in an orderly way. There is no exigency to warrant departure from the normal motion procedure. The *Sesay* Plaintiffs are entitled to present legal authority and argument on this important issue.

The *Sesay* Plaintiffs were taken by surprise by this request. Plaintiffs' Lead Counsel and GM came to this decision without any consultation with the *Sesay* Plaintiffs. The request was contained in Doc. No 272, the proposed tentative agenda for the September 4, 2014, hearing, which was filed after 10:30 p.m. Friday night, just before the long holiday weekend.

Upon discovery of the request, the *Sesay* Plaintiffs immediately sought clarification regarding what provision of this Court's Orders GM and Lead Counsel thought the *Sesay* Plaintiffs had violated in submitting their amended pleading. They have spent time today conferring with one of the co-leads to attempt to understand the objection to the *Sesay* filing and requesting that Lead Counsel reconsider their support for the request.

Counsel has prior commitments in Washington, D.C. tomorrow that preclude appearance at tomorrow's hearing. They reasonably believed that non-lead counsel were not expected to attend hearings as a matter of course and had no reason to anticipate that this issue would be added to the agenda at the 11th hour.

In addition, clarification of Lead Counsel's positions on the *Sesay* amendment has informed the *Sesay* and *Elliott* Plaintiffs positions with respect to the issue the Court asked GM and Lead Counsel to address—the timing and procedure for appeals from the Bankruptcy Court. After consultation with lead counsel, the *Sesay* Plaintiffs find that they disagree with GM and Lead Counsel, who are aligned together against the *Sesay* Plaintiffs on this issue as well.

In addition, while the *Elliott v. GM* lawsuit is not before the Court, I also conferred with Lead Counsel informally to coordinate their appeal and learned that on this issue as well, the *Elliott* Plaintiffs find themselves aligned against the joint position taken by GM and Lead Counsel.

In these circumstances, the *Sesay* Plaintiffs request an opportunity to be heard independent of the submissions of Lead Counsel and GM with respect to the question of the timing and procedures for appellate review of Bankruptcy Court Orders. They request that that opportunity be according to provide my clients a reasonable opportunity to present authority and argument regarding disagreements that have arisen over the consequence for individual lawsuits of the filing on the impending Master Complaint, disagreements that seem to be at the root of both conflicts now within the Plaintiffs' group.

The *Sesay* Plaintiffs request a meaningful opportunity to be heard on these issues after tomorrow's hearing. If the Court wishes nevertheless to consider one or both of these issues tomorrow, they request an opportunity to appear telephonically,

Thank you for your consideration.

Very truly yours,

/s/ Gary Peller

Gary Peller (pro hac vice pending)

I served this letter on interested parties via the Court's ECF system.

/s/ Gary Peller

Gary Peller
September 3, 2014.

