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

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In re : Chapter 11 Case No.
:
MOTORS LIQUIDATION COMPANY, et al., : 09-50026 (REG)
f/k/a General Motors Corp., et al. :
:
Debtors. : (Jointly Administered)
:
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**MOTORS LIQUIDATION COMPANY GUC TRUST'S
REPLY TO RESPONSE OF FOSTER TOWNSEND GRAHAM &
ASSOCIATES, LLP TO THE 220th OMNIBUS OBJECTION TO CLAIMS
(Contingent Co-Liability Claims)**

TO THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

The Motors Liquidation Company GUC Trust (the "GUC Trust"), formed by the above-captioned debtors (collectively, the "Debtors")¹ in connection with the *Debtors' Second Amended Joint Chapter 11 Plan*, dated March 18, 2011 (as may be amended, supplemented, or modified from time to time), files this reply (the "Reply") to the Foster Response (as hereinafter

¹ The Debtors are Motors Liquidation Company (f/k/a General Motors Corporation) ("MLC"), MLCS, LLC (f/k/a Saturn, LLC), MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation), MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.), Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc.

defined) interposed to the *220th Omnibus Objection to Claims (Contingent Co-Liability Claims)* (ECF No. 10089) (the “**Omnibus Objection**”), and respectfully represents:

Background

1. On or about January 4, 2006, Arthur Parratt was involved in a motor vehicle accident where he allegedly struck another individual while operating a car manufactured by the Debtors. The individual allegedly struck by Arthur Parratt subsequently asserted negligence claims against both Arthur Parratt and the Debtors in an action currently pending in the Ontario Superior Court of Justice, styled *Brad Harding vs. Arthur Parratt*, Court File No. 4768/07 (the “**Action**”). In the Action, Arthur Parratt also filed a cross-claim against the Debtors for contribution and/or indemnification for any damages Arthur Parratt may be obligated to pay to the underlying plaintiff.

2. On November 23, 2009, the law firm of Foster, Townsend, Graham, & Associates LLP (the “**Claimant**”), as counsel to Arthur Parratt, filed Proof of Claim No. 3893 (the “**Claim**”) in the Debtors’ chapter 11 cases on account of the cross-claim for contribution and/or indemnification that Arthur Parratt asserted against the Debtors in the Action.

3. On April 14, 2011, the GUC Trust objected to the Claim pursuant to the Omnibus Objection on the basis that the Claim is subject to disallowance under section 502(e)(1)(B) of title 11 of the United States Code (the “**Bankruptcy Code**”) because the Claim (1) is for reimbursement or contribution from the Debtors on account of damages that may be paid by Arthur Parratt as a result of the Action; (2) Arthur Parratt and the Debtors were both named as defendants in the Action and are co-liable to the underlying plaintiff in the Action; and (3) the Claim is contingent as Arthur Parratt has not made payment to the plaintiff in the Action.

4. On May 3, 2011, Claimant filed a non-substantive response to the Omnibus Objection (ECF No. 10177) (the “**Foster Response**”) that only reiterates the basis of

the Claim and does not provide legal or factual support refuting the applicability of section 502(e)(1)(B) to the Claim. The GUC Trust files this Reply in support of the Omnibus Objection and respectfully requests that the Claim be disallowed and expunged from the claims register.

The Claim Should Be Disallowed and Expunged

5. The Foster Response does not refute the GUC Trust's assertions that the Claim meets the criteria for disallowance under section 502(e)(1)(B). The Foster Response merely reiterates that the Claim is based upon a cross-claim asserted by Arthur Parratt against the Debtors in the underlying Action and that no judgment has yet been rendered. The Claimant has informed the GUC Trust that, while a consensual resolution of the Action is on the horizon, the Action continues to remain pending at this time and that the Claimant is reluctant to withdraw the Claim from the Debtors' chapter 11 cases until the underlying Action has been withdrawn as to Arthur Parratt. This Court has ruled that a claim remains contingent for the purposes of section 502(e)(1)(B) until a claimant actually makes payment on the amounts for which it seeks contribution or reimbursement from a debtor. *In re Lyondell Chem. Co.*, 442 B.R. 236, 248 (Bankr. S.D. N.Y. 2011) (citations omitted). In order for a claim to be disallowed under section 502(e)(1)(B), the claim need only be contingent as of the date of the court's disallowance ruling. *See In re GCO Serv. LLC*, 324 B.R. 459, 466 (Bankr. S.D.N.Y. 2005).

6. The Foster Response provides no additional documentation refuting the GUC Trust's allegations in the Omnibus Objection. For the reasons set forth above and in the Omnibus Objection, the GUC Trust respectfully submits that the Claim should be disallowed pursuant to section 502(e)(1)(B).

Conclusion

WHEREFORE, the GUC Trust respectfully requests that the Court disallow and expunge the Claim in its entirety and grant such other and further relief as is just.

Dated: New York, New York
November 7, 2012

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