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May 12, 2015

**VIA E-MAIL
AND ECF FILING**

The Honorable Robert E. Gerber
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, New York 10004

RE: In re Motors Liquidation Company, et al., Case No. 09-50026 (REG)

Dear Judge Gerber:

We write jointly as Co-Designated Counsel and Counsel for Economic Loss Plaintiffs and Designated Counsel and Counsel for Ignition Switch Pre-Closing Accident Plaintiffs (together, the "**Ignition Switch Plaintiffs**") in response to the direction set forth in the April 15 Decision and May 5 Endorsed Order. Despite extensive efforts, the parties have not reached a fully consensual form of judgment. Accordingly, we hereby submit the Ignition Switch Plaintiffs' proposed form of judgment attached hereto as **Exhibit A**. Attached hereto as **Exhibit B** is a blackline comparing the Ignition Switch Plaintiffs' proposal to New GM's form. The following highlights the substantive points of disagreement, and why the Court should approve the Ignition Switch Plaintiffs' proposed form.

1) Permissible Claims Against New GM.

Paragraph 4 of the Ignition Switch Plaintiffs' proposed judgment provides that "[f]or the reasons set forth in the Decision, the Ignition Switch Plaintiffs established prejudice and thus a due process violation with respect to the Independent Claims. The Sale Order shall be deemed modified to permit the assertion and continued prosecution of Independent Claims." New GM cannot dispute this conforms to the Decision.

The Ignition Switch Plaintiffs and New GM generally agree on the definition of "**Independent Claims**" with the Ignition Switch Plaintiffs proposing in paragraph 4 of their proposal that "Independent Claims" shall mean "claims or causes of action asserted by Ignition Switch Plaintiffs against New GM, whether or not involving Old GM vehicles or parts, that are based solely on New GM's own, independent, post-Closing acts or conduct." See In re Motors Liquidation Co., 2015 Bankr. LEXIS 1296, at *222 (Bankr. S.D.N.Y. Apr. 15, 2011).

However, New GM, in paragraph 9 of its form improperly attempts to limit the definition of Independent Claims by proposing that any claims that Ignition Switch Plaintiffs may have against New GM "concerning an Old GM vehicle or part seeking to impose liability or damages based on Old GM conduct, or a successor liability theory of recovery are forever barred and enjoined pursuant to the Sale Order." This undercuts the agreed definition of Independent Claims as well as the Decision which provide that the Ignition

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Switch Plaintiffs may assert and continue to prosecute claims against New GM involving Old GM vehicles or parts. See id. at *22.

Accordingly, the Court should adopt the Ignition Switch Plaintiffs' proposed paragraph 8 which provides: "Except for the Independent Claims and Assumed Liabilities, any claims and/or causes of action that the Ignition Switch Plaintiffs may have against New GM based on successor liability are barred and enjoined pursuant to the Sale Order, and such lawsuits shall remain stayed pending appeal of the Decision and this Judgment."

2) Status of Ignition Switch Plaintiffs' Lawsuits.

The Ignition Switch Plaintiffs intend to appeal, *inter alia*, that portion of the Decision upholding the Sale Order's bar on successor liability claims. Accordingly, Plaintiffs request that the successor liability claims be stayed pending appeal. If the Decision is ultimately affirmed, only then should the successor liability claims be dismissed with prejudice.

This Court should adopt the Ignition Switch Plaintiffs' proposed judgment as faithful to the Decision and sound judicial administration. Rather than compelling plaintiffs with actions pending in other jurisdictions to file papers in this Court as to why their lawsuits should not be dismissed with prejudice as New GM suggests (necessitating this Court to dive into the merits of plaintiffs' claims), the Ignition Switch Plaintiffs provide an administratively balanced and non-prejudicial pathway forward as follows:

- (i) Independent Claims proceed in the jurisdictions where they are pending with those courts reviewing same with care to ensure they are not "dressed up" successor liability claims prohibited under the Sale Order. Id. at *26;
- (ii) claims or causes of action that Ignition Switch Plaintiffs may have against New GM sounding in the nature of successor liability are stayed pending appeal; and
- (iii) claims of Non-Ignition Switch Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs remain subject to the Sale Order, provided that to the extent an issue shall arise in the future as to whether they were known or unknown creditors of the Debtors or were otherwise bound by the Sale Order, such plaintiffs shall be required to first seek resolution of such issues from this Court before proceeding any further against New GM.

New GM's proposed judgment improperly would dismiss the Ignition Switch Plaintiffs' lawsuits with prejudice now despite the stated intention to appeal and the fact that many of the lawsuits assert Independent Claims. Paragraphs 8, 10, 11 and 13 of New GM's proposed judgment would provide an inefficient labyrinth of cumbersome procedures impacting a wide array of actions pending against New GM in various jurisdictions. Adopting New GM's proposed procedures unduly prejudices plaintiffs, raises extra-jurisdictional concerns, and would unnecessarily congest this Court's docket.

The Ignition Switch Plaintiffs submit that the Decision did not direct the substantive actions or extra-jurisdictional procedures set forth in New GM's proposed judgment. Indeed, New GM's proposed cumbersome procedure for dismissing cases with prejudice is inconsistent with the heavily negotiated and carefully crafted provisions of MDL Order No. 50 (attached hereto as Exhibit C and which provides that certain actions that are subsumed by the Amended Consolidated Complaint are dismissed, without prejudice).

Under New GM's proposed judgment, this Court would be faced with deciding whether the merits of the underlying claims in numerous plaintiff actions, including those currently pending and scheduled to be



amended in the MDL, raise Independent Claims, or claims barred by the Sale Order and the Decision. Such a result was not contemplated by the Decision which correctly left it to reviewing courts to analyze the claims to determine whether they are in substance successor liability claims “dressed up to look like something else.” Id. at *26. New GM’s proposed procedure would eviscerate the work to be done in the MDL and replace Judge Furman’s jurisdiction over these exact matters, all on an untenable time line and playing field.

New GM’s proposed procedures effectuating immediate dismissals with prejudices in cases pending in other courts are inefficient and inconsistent with sound principles of judicial management and the procedures set forth in the MDL and other courts. See Donovan v. City of Dallas, 377 U.S. 408, 412 (1964) (noting general rule that courts will not interfere with or try to restrain each other’s proceedings). New GM’s proposed procedure could provide imperfect protection if the appeal is successful, plus force plaintiffs to incur costs in re-filing fees. See Theilmann v. Rutland Hosp., Inc., 455 F.2d 853, 855 (2d Cir. 1972) (“Dismissal with prejudice is a harsh remedy to be utilized only in extreme situations.”). Any dismissals with prejudice are premature. If New GM wants to move to dismiss in the home courts, the home court judge may decide whether to dismiss and on what terms, in light of the anticipated appeals. Staying the actions pending appeal provides more administrative convenience and procedural equity and no undue prejudice to New GM. See Greenidge v. Allstate Ins. Co., No. 02 Civ. 9796 (JCF), 2003 WL 22871905, at *3 (S.D.N.Y. Dec. 3, 2003) (deferral of determination of summary judgment motion pending appeal of intervention motion is not prejudicial).

More fundamentally, Plaintiffs’ Second Amended Consolidated Complaint will not be filed until June 12, 2015. All other actions and complaints in the MDL will remain stayed or dismissed without prejudice and the Second Amended Consolidated Complaint will be the only operative pleading in the MDL. It will not assert any successor liability claims to avoid proceedings inconsistent with the Decision, pending resolution of the appeal. Once it is filed, New GM will have the opportunity to move to dismiss the claims pled. At that time, upon full briefing, Judge Furman can rule on the viability of those claims – and that review will no doubt include the question of whether the claims (or any of them) improperly seek to hold New GM liable on a successor liability theory. Dismissal with prejudice now is premature.

3) The Judgment Should Not Unduly Affect The Interests Of Non-Ignition Switch Plaintiffs.

New GM’s proposed judgment improperly seeks to expand the Decision beyond its parameters as it relates to the Non-Ignition Switch Pre-Closing Accident Plaintiffs and the Non-Ignition Switch Plaintiffs.

Specifically, the Decision was confined to plaintiffs that owned or leased a vehicle that contained the “Ignition Switch Defect” as defined therein. See In re Motors Liquidation Co., 2015 Bankr. LEXIS 1296 at *5. The other category of Plaintiffs later coming into the picture (“Non-Ignition Switch Plaintiffs”) brought actions asserting Economic Loss Claims as to GM branded vehicles that did not have Ignition Switch Defects, including cars made by New GM and Old GM alike. While New GM brought another motion to enforce the Sale Order with respect to them, this additional motion “has been deferred pending the determination of the issues here.” Id. at *8-9.

Accordingly, the Decision is limited to the Ignition Switch Defect and does not extend to pre-closing accident plaintiffs whose incident or accident related to a vehicle with a defect other than the Ignition Switch Defect or to plaintiffs with economic loss claims that relate to vehicles that do not contain the Ignition Switch Defect. Of course, this makes sense, because, as the Court itself noted, the “common set of stipulated facts” was developed with respect to the Ignition Switch Defect and not any other defect. Id. Those plaintiffs remain stayed and the Sale Order is still fully applicable to those parties, but any effort to give the Decision preclusive effect as to them would be ironic given the due process issues addressed in the Decision.



New GM's proposed judgment places unnecessary hurdles and administrative burdens on these plaintiffs by compelling them to file No Dismissal Pleadings within 17 business days of receipt of a notice of the claims or causes of action that New GM itself determines violates the Decision and Sale Order. Forcing these claimants to litigate now on New GM's terms is administratively inefficient and prejudicial. The Decision yields no such result. Accordingly, the Court should strike New GM's proposed procedures in paragraphs 13(b) – (e) as unduly burdensome and premature.

4) Status of Attorney General Actions.

The Decision holds that claims against New GM based solely on the conduct of New GM can proceed, even if those claims involve cars and parts made by Old GM. *Id.* at *222. There are two pending State law enforcement actions that assert solely Independent Claims and accordingly the Sale Order, as modified by the Decision, poses no impediment to their advancement. See People of California v. General Motors LLC, No. 30-2014-00731038-CU-BT-CXC (Orange County, Cal.); State of Arizona v. General Motors, LLC, No. CV2014-014090 (Maricopa County, Ariz.) (collectively, the "State Actions").

Accordingly, paragraph 9 of the Ignition Switch Plaintiffs' proposed judgment provides that the State Actions "shall be subject to the appropriate motion practice in the courts where those proceedings are pending, consistent with the Decision and this Judgment." Conversely, in paragraph 12 of its proposed judgment, New GM provides that the State Actions should remain stayed without prejudice to the plaintiffs seeking relief from the stay in this Court.

New GM's proposal is inconsistent with the Decision and seeks to impose additional delay on actions that consist entirely of Independent Claims. The State Actions assert law enforcement claims for injunctive relief, civil penalties and other available relief against New GM solely for its post-Sale violations of the State consumer protection laws at issue - respectively, Arizona's Consumer Fraud Act (A.R.S. § 44-1521, *et seq.*), and California's Unfair Competition Law ("UCL") (Cal. Bus. Code § 17200) and False Advertising Law ("FAL") (Cal Bus. Code § 17500).

For example, the Arizona Complaint (a copy of which is attached hereto as Exhibit D) alleges that "New GM's false representations and/or omissions concerning the safety and reliability of its vehicles, and its concealment of a plethora of known safety defects plaguing its vehicles and its brand, caused Arizona residents to purchase GM-branded vehicles under false pretenses." Arizona Complaint, ¶ 22, and that New GM's conduction violated A.R.S. § 44-1522(A). See *id.* ¶¶ 497-498. As the Arizona Complaint makes clear, the unlawful practices at issue are those committed by New GM "in connection with the sale and lease of GM-branded vehicles on or after July 11, 2009." *Id.* ¶¶ 498, 503. Likewise, in the Prayer for Relief, all the remedies are targeted at New GM's conduct, as the State (A) seeks to enjoin New GM from "engaging in the unlawful acts and practice as alleged in this Complaint;" (B) seeks an Order that New GM disgorge its profits or gains from its unlawful practices; and (C) seeks an Order that New GM pay penalties for each of its willful violations of the Consumer Fraud Act.

Similarly, the California Complaint (a copy of which is attached hereto as Exhibit E) alleges that post-Sale conduct by New GM violated, *inter alia*, the prohibitions on unfair and deceptive conduct embodied in California's UCL and FAL. See Cal., Compl., ¶¶ 253-274. The Prayer for Relief seeks to (A) enjoin New GM from committing further acts of unfair competition; and (B) obtain civil penalties from New GM for its violations of the UCL and FAL.

Significantly, in his decision remanding the California action to state court, Judge Furman recognized that New GM might be held liable for post-Sale violations of its own independent duties under State law: "[A]s Plaintiff notes, the claims for violations of the UCL and FAL are premised on various allegedly



deceptive practices by New GM.” In re General Motors LLC Ignition Switch Litig., 2014 WL 6655796, at *7 (S.D.N.Y. Nov. 24, 2014). The same is true of the Arizona action.

New GM wrongfully attempts to encroach on the jurisdiction of the State Action courts. Clearly, the Decision does not countenance such a result as it cautions other courts to consider whether actions properly assert Independent Claims during the administration of matters pending before them. Moreover, the Decision does not suggest that additional litigation relating to stay relief on these matters should proceed before this Court. New GM may argue that the State Actions are somehow “dressed-up” successor liability claims, but under the Decision, those arguments should be addressed to the State Action courts. Accordingly, the Court should adopt paragraph 9 of the Ignition Switch Plaintiffs’ proposed judgment.

5) Equitable Mootness.

There is disagreement between the Ignition Switch Plaintiffs on the one hand, and New GM, the GUC Trust and the Unit Holders, on the other, on two substantive issues relating to the equitable mootness findings. First, in paragraph 6 of its proposed judgment, the Ignition Switch Plaintiffs propose that “based on the doctrine of equitable mootness, in no event shall *GUC Trust Assets (as defined in the Decision)* be used to satisfy any claims of the Plaintiffs, nor will Old GM’s Plan be modified with respect to such claims.”

Conversely, New GM, the GUC Trust and the Unit Holders seek to expand the findings by adding language that based on the doctrine of equitable mootness, in no event shall the assets of the GUC Trust “*held at any time in the past, now, or in the future*” be used to satisfy any claims of the Ignition Switch Plaintiffs.

The Ignition Switch Plaintiffs believe their proposed language is more in faith with the Decision since it did not address whether Plaintiffs may have the exclusive benefit of, or share in, the proceeds of triggering the accordion provision under the Plan and Sale Agreement. The Ignition Switch Plaintiffs submit that because the proceeds of the accordion provision can only be triggered by allowance of the Ignition Switch Plaintiffs’ claims against the Old GM bankruptcy estate and the Decision focused on Unit Holders’ expectation that the universe of claims could only go down (see Id. at *194-95), the judgment should adopt the Ignition Switch Plaintiffs’ proposed language. Any other formulation may prejudice the Ignition Switch Plaintiffs’ rights going forward.

The Second substantive issue relates to paragraphs 13(d) and (e) of New GM’s proposed judgment. Those paragraphs would compel the Non-Ignition Switch Pre-Closing Accident Plaintiffs and the Non-Ignition Switch Plaintiffs to file a pleading within 17 business days of entry of the judgment setting forth the basis it believes that any GUC Trust Assets may be used to satisfy late proofs of claim.

The Ignition Switch Plaintiffs propose that Court should not adopt these procedures as the Decision did not address the claims of the Non-Ignition Switch Pre-Closing Accident Plaintiffs and the Non-Ignition Switch Plaintiffs, and such procedures add unnecessary administrative and judicial burdens and costs.

6) Miscellaneous Language Disagreements.

There are several other points of disagreement between the competing proposed judgments reflected in the Ignition Switch Plaintiffs’ blackline, attached hereto as Exhibit B. They are equally substantive and important as those issues in dispute highlighted above. However, for the sake of brevity, the Ignition Switch Plaintiffs believe that this Court will ably see that the Ignition Switch Plaintiffs’ proposed language is more faithful to the plain meaning and spirit of the Decision and should be adopted in its entirety.



Respectfully submitted,

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11
: :
MOTORS LIQUIDATION COMPANY, *et al.*, : Case No.: 09-50026 (REG)
f/k/a General Motors Corp., *et al.* : :
: :
Debtors. : (Jointly Administered)
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JUDGMENT

For the reasons set forth in the Court’s *Decision on Motion to Enforce Sale Order*, entered on April 15, 2015 (“**Decision**”),¹ it is hereby ORDERED AND ADJUDGED as follows:

1. For the reasons set forth in the Decision, the Ignition Switch Plaintiffs and the Ignition Switch Pre-Closing Accident Plaintiffs (collectively, the “**Plaintiffs**”) were “known creditors” of the Debtors. The Plaintiffs did not receive the requisite notice of the sale of substantially all of the assets of Old GM to New GM (“**363 Sale**”).

2. Subject to the sole exception of the Independent Claims (as herein defined), for the reasons set forth in the Decision, the Ignition Switch Plaintiffs have not demonstrated that their lack of notice of the 363 Sale was prejudicial and, therefore, failed to establish a due process violation with respect to the 363 Sale.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Decision. For purposes of this Judgment, the following terms shall apply: (i) “**Ignition Switch Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM asserting economic losses based on or arising from the Ignition Switch in the Subject Vehicles (each term as defined in the *Agreed and Disputed Stipulations of Fact Pursuant to the Court’s Supplemental Scheduling Order, Dated July 11, 2014*, filed on August 8, 2014 [Dkt. No. 12826], at 3); (ii) “**Pre-Closing Accident Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM based on an accident or incident that occurred prior to the closing of the 363 Sale; (iii) “**Ignition Switch Pre-Closing Accident Plaintiffs**” shall mean that subset of the Pre-Closing Accident Plaintiffs that had the Ignition Switch in their Subject Vehicles; (iv) “**Non-Ignition Switch Pre-Closing Accident Plaintiffs**” shall mean that subset of Pre-Closing Accident Plaintiffs that are not Ignition Switch Pre-Closing Accident Plaintiffs; and (v) “**Non-Ignition Switch Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM asserting economic losses based on or arising from an alleged defect, other than the Ignition Switch, in an Old GM vehicle.

3. For the reasons set forth in the Decision, the Ignition Switch Pre-Closing Accident Plaintiffs have not demonstrated that their lack of notice of the 363 Sale was prejudicial and, therefore, failed to establish a due process violation with respect to the 363 Sale.

4. For the reasons set forth in the Decision, the Ignition Switch Plaintiffs established prejudice and thus a due process violation with respect to the Independent Claims. The Sale Order shall be deemed modified to permit the assertion and continued prosecution of Independent Claims. For purposes of this Judgment “**Independent Claims**” shall mean claims or causes of action asserted by Ignition Switch Plaintiffs against New GM, whether or not involving Old GM vehicles or parts, that are based solely on New GM’s own, independent, post-Closing acts or conduct. Nothing set forth herein shall be construed to imply whether or not Ignition Switch Plaintiffs have viable Independent Claims against New GM.

5. Except for the modification to permit the assertion and continued prosecution of Independent Claims by the Ignition Switch Plaintiffs, the Sale Order shall remain unmodified and in full force and effect.

6. For the reasons set forth in the Decision, the Plaintiffs were prejudiced by the failure to receive the requisite notice of the deadline (“**Bar Date**”) to file proofs of claim against the Old GM bankruptcy estate. The Plaintiffs may petition the Bankruptcy Court (on motion and notice) for authorization to file late or amended proofs of claim against the Old GM bankruptcy estate. However, based on the doctrine of equitable mootness, in no event shall GUC Trust Assets (as defined in the Decision) be used to satisfy any claims of the Plaintiffs, nor will Old GM’s Plan be modified with respect to such claims. The preceding sentence shall not apply to any Ignition Switch Plaintiff, Pre-Closing Accident Plaintiff, or Non-Ignition Switch Plaintiff that had a claim previously allowed by the Court, but in no event shall they be entitled to

increase the amount of such allowed claim without the prior authorization of the Bankruptcy Court or an appellate court following an appeal from the Bankruptcy Court.

7. Any claims and/or causes of action brought by the Ignition Switch Pre-Closing Accident Plaintiffs against New GM that seek to hold it liable for accidents or incidents that occurred prior to the closing of the 363 Sale are barred and enjoined pursuant to the Sale Order. The Ignition Switch Pre-Closing Accident Plaintiffs shall not assert or maintain any such claim or cause of action against New GM.

8. Except for the Independent Claims and Assumed Liabilities, any claims and/or causes of action that the Ignition Switch Plaintiffs may have against New GM based on successor liability are barred and enjoined pursuant to the Sale Order, and such lawsuits shall remain stayed pending appeal of the Decision and this Judgment.

9. The lawsuits captioned *People of California v. General Motors LLC, et al.*, No. 30-2014-00731038-CU-BT-CXC (Orange County, Cal.) and *State of Arizona v. General Motors LLC*, No. CV2014-014090 (Maricopa County, Ariz.) shall be subject to appropriate motion practice in the courts where those proceedings are currently pending, consistent with the Decision and this Judgment.

10. The rulings set forth herein and in the Decision that proscribe claims and actions being taken against New GM shall apply to the “Identified Parties”² who were heard during the proceedings regarding the Four Threshold Issues. They shall also apply to other plaintiffs in these proceedings, subject to any objection (“**Objection Pleading**”) submitted by any such party within 17 business days of the entry of this Judgment. New GM shall file a response to any such Objection Pleading within 17 business days of service. The Court will schedule a hearing

² “**Identified Parties**” as defined in the Court’s Scheduling Order entered on May 16, 2014 (ECF No. 12697), and persons that have asserted Pre-Closing personal injury and wrongful death claims against New GM based on the Ignition Switch Defect (as defined in the Decision).

thereon if it believes one is necessary. The rulings set forth herein are without prejudice to the submission of other objections to New GM's Motions to Enforce Sale Order. To the extent an issue shall arise in the future as to whether (i) the Non-Ignition Switch Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs were known or unknown creditors of the Debtors, or (ii) the Non-Ignition Switch Pre-Closing Accident Plaintiffs or Non-Ignition Switch Plaintiffs were otherwise bound by the provisions of the Sale Order, the Non-Ignition Switch Pre-Closing Accident Plaintiffs or Non-Ignition Switch Plaintiffs shall be required to first seek resolution of such issues from this Court before proceeding any further against New GM.

11. The Court adopts the legal standard for "fraud on the court" as set forth in the Decision.

12. (a) By agreement of New GM, Designated Counsel for the Ignition Switch Plaintiffs, the GUC Trust, and the GUC Trust Unitholders, and approved by the Court, no discovery was conducted in connection with the resolution of the Four Threshold Issues. The Ignition Switch Pre-Closing Accident Plaintiffs did not challenge the earlier decision barring discovery in connection with the Four Threshold Issues. Instead, New GM, Designated Counsel, the Groman Plaintiffs, the GUC Trust, and the GUC Trust Unitholders developed and submitted to the Court a set of agreed upon stipulated facts. Such parties also submitted to the Bankruptcy Court certain disputed facts and exhibits.

(b) The Court finds that the agreed-upon factual stipulations were sufficient for purposes of determining the Four Threshold Issues, that none of the disputed factual stipulations raised a genuine issue of material fact as to any of the Four Threshold Issues, and that treating any of the disputed facts as part of the undisputed stipulated record would not have affected the Decision.

(c) The Groman Plaintiffs requested discovery with respect to the Four Threshold Issues but the other parties opposed the request and the Court denied said request. The Groman Plaintiffs' continuing request for such discovery is also denied.

(d) For these reasons (and others), the findings of fact in the Decision shall apply only for the purpose of this Court's resolution of the Four Threshold Issues and shall have no force or applicability in any other legal proceeding or matter, including without limitation, MDL 2543.

13. The Court shall retain exclusive jurisdiction, to the fullest extent permissible under law, to construe or enforce the Sale Order, this Judgment, and/or the Decision on which it was based.

14. Pursuant to Bankruptcy Rule 8006(e)(1), for the reasons stated in the Decision, the Court hereby certifies this Judgment for direct appeal to the Circuit Court ("Appeal"). The Ignition Switch Plaintiffs, the Pre-Closing Accident Plaintiffs, the Non-Ignition Switch Plaintiffs, New GM, the GUC Trust, the GUC Trust Unitholders and the Groman Plaintiffs each reserve all of their rights with respect to the Appeal, including the right to challenge any of the factual and legal findings made by the Court in the Decision and to challenge certification for direct appeal.

15. The parties have stipulated that they shall not file any voluntary supplemental statements regarding the Court's certification of the Appeal as allowed pursuant to Bankruptcy Rule 8006(e)(2), and shall submit all statements either in support or against certification of the Appeal in the Circuit Court.

16. Count One of the amended complaint ("Groman Complaint") filed in *Groman et al v. General Motors LLC* (Adv. Proc. No. 14-01929 (REG)) is dismissed with prejudice. The

remaining counts of the Groman Complaint that deal with the “fraud on the court” issue are deferred and stayed until 30 days after all appeals of the Decision and Judgment are decided. With respect to Count One of the Groman Complaint, (i) the statute of limitations shall be tolled from the date of dismissal of Count One to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Groman Plaintiffs can maintain the cause of action in Count One of the Groman Complaint heretofore dismissed pursuant to this Judgment, the Groman Plaintiffs’ rights against New GM that existed as of the dismissal of Count One shall be reinstated as if the dismissal of Count One never occurred.

17. New GM is hereby authorized to serve this Judgment and the Decision upon any additional party (and/or their attorney) (each, an “**Additional Party**”) that commences a lawsuit (each, an “**Additional Lawsuit**”) against New GM that would be proscribed by the Sale Order (as modified by the Decision and Judgment). Any Additional Party shall have 17 business days upon receipt of service by New GM of the Decision and Judgment to dismiss, without prejudice, such Additional Lawsuit or the allegations, claims or causes of action contained in such Additional Lawsuit that would violate the Decision, this Judgment, and the Sale Order (as modified by the Decision and Judgment). If any Additional Party has a good faith basis to maintain that the Additional Lawsuit or certain allegations, claims or causes of action contained in such Additional Lawsuit should not be dismissed without prejudice, such Additional Party shall, within 17 business days upon receipt of the Decision and Judgment, file with this Court a pleading (“**No Dismissal Pleading**”) explaining why such Additional Lawsuit or certain claims or causes of action contained therein should not be dismissed without prejudice. The No Dismissal Pleading shall not reargue issues that were already decided by the Decision and

Judgment. New GM shall file a response to the No Dismissal Pleading within 17 business days of service of the No Dismissal Pleading. The Court will schedule a hearing thereon if it believes one is necessary. If an Additional Party fails to either (i) dismiss without prejudice the Additional Lawsuit or the claims and/or causes of action contained therein that New GM asserts violates the Decision, Judgment, and/or Sale Order (as modified by the Decision and Judgment), or (ii) timely file a No Dismissal Pleading with the Court within the time period set forth above, New GM shall be permitted to file with this Court a notice of presentment on five (5) business days' notice, with an attached Dismissal Order that directs the Additional Party to dismiss without prejudice the Additional Lawsuit or the claims and/or causes of action contained therein that violate the Decision, this Judgment and/or the Sale Order (as modified by the Decision and Judgment), within 17 business days of receipt of the Dismissal Order. With respect to any lawsuit that is dismissed pursuant to this Paragraph, (i) the statute of limitations shall be tolled from the date of dismissal of such lawsuit to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Additional Party can maintain the lawsuit heretofore dismissed pursuant to this Judgment, the Additional Party's rights against New GM that existed as of the dismissal of the lawsuit shall be reinstated as if the dismissal of the lawsuit never occurred. For the avoidance of doubt, nothing in this Paragraph 17 shall apply to the Amended Consolidated Complaint to be filed in the MDL proceeding on or before June 12, 2015.

Dated: New York, New York
May __, 2015

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	: Chapter 11
	: :
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	: Case No.: 09-50026 (REG)
f/k/a General Motors Corp., <i>et al.</i>	: :
	: :
Debtors.	: (Jointly Administered)
-----X	

JUDGMENT

For the reasons set forth in the Court’s *Decision on Motion to Enforce Sale Order*, entered on April 15, 2015 (“**Decision**”),¹ it is hereby ORDERED AND ADJUDGED as follows:

1. For the reasons set forth in the Decision, the Ignition Switch Plaintiffs and the Ignition Switch Pre-Closing Accident Plaintiffs (collectively, the “**Plaintiffs**”) were “known creditors” of the Debtors. The Plaintiffs did not receive the requisite notice from Old GM of the sale of substantially all of the assets of Old GM to New GM (“**363 Sale**”).

2. Subject to the sole exception of the Independent Claims (as herein defined), for the reasons set forth in the Decision, the Ignition Switch Plaintiffs have not

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Decision. For purposes of this Judgment, the following terms shall apply: (i) “**Ignition Switch Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM asserting economic losses based on or arising from the Ignition Switch in the Subject Vehicles (each term as defined in the *Agreed and Disputed Stipulations of Fact Pursuant to the Court’s Supplemental Scheduling Order, Dated July 11, 2014*, filed on August 8, 2014 [Dkt. No. 12826], at 3); (ii) “**Pre-Closing Accident Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM based on an accident or incident that occurred prior to the closing of the 363 Sale; (iii) “**Ignition Switch Pre-Closing Accident Plaintiffs**” shall mean that subset of the Pre-Closing Accident Plaintiffs that had the Ignition Switch in their Subject Vehicles; (iv) “**Non-Ignition Switch Pre-Closing Accident Plaintiffs**” shall mean that subset of Pre-Closing Accident Plaintiffs that are not Ignition Switch Pre-Closing Accident Plaintiffs; and (v) “**Non-Ignition Switch Plaintiffs**” shall mean plaintiffs that have commenced a lawsuit against New GM asserting economic losses based on or arising from an alleged defect, other than the Ignition Switch, in an Old GM vehicle.

~~established~~ demonstrated that their lack of notice of the 363 Sale was prejudicial and, therefore, failed to establish a due process violation with respect to the 363 Sale.

3. For the reasons set forth in the Decision, the Ignition Switch Pre-Closing Accident Plaintiffs have not ~~established~~ demonstrated that their lack of notice of the 363 Sale was prejudicial and, therefore, failed to establish a due process violation with respect to the 363 Sale.

4. ~~The Ignition Switch Plaintiffs were prejudiced by the failure of Old GM to give them the requisite notice of the 363 Sale with respect to the Independent Claims.~~ For the reasons set forth in the Decision, the Ignition Switch Plaintiffs established prejudice and thus a due process violation with respect to the Independent Claims. The Sale Order shall be deemed modified to permit the assertion and continued prosecution of Independent Claims. For purposes of this Judgment, **“Independent Claims”** shall mean claims or causes of action asserted by Ignition Switch Plaintiffs against New GM, whether or not involving Old GM vehicles or parts, that are based solely on New GM’s own, independent, post-Closing acts or conduct. Nothing set forth herein ~~should~~ shall be construed to imply whether or not Ignition Switch Plaintiffs have viable Independent Claims against New GM.

5. Except for the modification to permit the assertion and continued prosecution of Independent Claims by the Ignition Switch Plaintiffs, the Sale Order shall remain unmodified and in full force and effect.

6. For the reasons set forth in the Decision, the Plaintiffs were prejudiced by the failure of Old GM to ~~give them~~ receive the requisite notice of the deadline (**“Bar Date”**) to file proofs of claim against the Old GM bankruptcy estate. The Plaintiffs ~~who did not file a proof of claim prior to the Bar Date~~ may petition the Bankruptcy Court (on motion and notice) for

authorization to file late or amended proofs of claim against the Old GM bankruptcy estate. The Court has not determined whether any late proof of claim will ultimately be allowed. However, based on the doctrine of equitable mootness, in no event shall the assets of the GUC Trust held at any time in the past, now, or in the future (collectively, the "GUC Trust Assets" Assets (as defined in the Decision)) be used to satisfy any claims of the Plaintiffs, nor will Old GM's Plan be modified with respect to such claims. The preceding sentence shall not apply to any Plaintiffs Ignition Switch Plaintiff, Pre-Closing Accident Plaintiff, or Non-Ignition Switch Plaintiff that had a claim previously allowed by the Court, but in no event shall they be entitled to increase the amount of such allowed claim without the prior authorization of the Bankruptcy Court or an appellate court following an appeal from the Bankruptcy Court.

7. Any claims and/or causes of action brought by the Ignition Switch Pre-Closing Accident Plaintiffs against New GM that seek to hold it liable for accidents or incidents that occurred prior to the closing of the 363 Sale are barred and enjoined pursuant to the Sale Order. The Ignition Switch Pre-Closing Accident Plaintiffs shall not assert or maintain any such claim or cause of action against New GM.

~~8. (a) Subject to the other provisions of this paragraph 8, the Ignition Switch Pre-Closing Accident Plaintiffs, including without limitation the Ignition Switch Pre-Closing Accident Plaintiffs identified in Exhibit "A" attached hereto, shall each dismiss, with prejudice, within 17 business days after the entry of this Judgment, any lawsuit commenced by them against New GM and, within 22 business days after the entry of this Judgment, each of the Ignition Switch Pre-Closing Accident Plaintiffs shall file with the Clerk of this Court evidence of the dismissal of such lawsuit.~~

~~(b) Within two (2) business days of the entry of this Judgment, New GM shall serve a copy of this Judgment on counsel in the lawsuits identified on Exhibit "A," by e-mail, facsimile, overnight mail or, if none of the foregoing are available, regular mail, with a cover note that states: "The attachment is the Judgment entered by the Bankruptcy Court. Please review the Judgment, including without limitation, the provisions of paragraph 8 of the Judgment."~~

~~(c) If counsel for an Ignition Switch Pre-Closing Accident Plaintiff identified on Exhibit "A" believes that, notwithstanding the Decision and this Judgment, it has a good faith basis to maintain that its lawsuit against New GM should not be dismissed, it shall file a pleading with this Court within 17 business days of this Judgment ("**No Dismissal Pleading**"). The No Dismissal Pleading shall not reargue issues that were already decided by the Decision and Judgment. If a No Dismissal Pleading is timely filed, New GM shall have 17 business days to respond to such pleading. The Court will schedule a hearing thereon if it believes one is necessary.~~

~~(d) For any lawsuit filed by Ignition Switch Pre-Closing Accident Plaintiffs that is dismissed pursuant to this Judgment, (i) the statute of limitations shall be tolled from the date of dismissal to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Ignition Switch Pre-Closing Accident Plaintiffs can maintain the lawsuit against New GM heretofore dismissed pursuant to this Judgment, all of the Ignition Switch Pre-Closing Accident Plaintiffs' rights against New GM that existed as of the dismissal of their lawsuit shall be reinstated as if the dismissal never occurred.~~

8. ~~9.~~ Except for the Independent Claims and Assumed Liabilities, ~~if any, all~~ claims and/or causes of action that the Ignition Switch Plaintiffs may have against New GM concerning an Old GM vehicle or part seeking to impose liability or damages based on Old GM conduct, or a successor liability theory of recovery, are barred and enjoined pursuant to the Sale Order, and such lawsuits shall remain stayed pending appeal of the Decision and this Judgment.

~~10. (a)~~ Subject to the other provisions of this paragraph ~~10~~ and unless already dismissed without prejudice pursuant to an order(s) entered in MDL 2543, the Ignition Switch Plaintiffs shall each dismiss, with prejudice, on or before June 12, 2015, any lawsuit commenced by them against New GM. Exhibit "B" is a list of the lawsuits to be dismissed with prejudice. The lawsuits identified on Exhibit "B" include the Pre-Sale Consolidated Complaint. On or before June 15, 2015, the Ignition Switch Plaintiffs, other than those whose complaints already have been dismissed by operation of orders entered in MDL 2543, shall file with the Clerk of this Court evidence of the dismissal of such lawsuits that are required to be dismissed pursuant to this Judgment.

~~(b)~~ Within two (2) business days of the entry of this Judgment, New GM shall serve a copy of this Judgment on counsel in the lawsuits identified on Exhibit "B", by e-mail, facsimile, overnight mail or, if none of the foregoing are available, regular mail, with a cover note that states: "The attachment is the Judgment entered by the Bankruptcy Court. Please review the Judgment, including without limitation, the provisions of paragraph 10 of the Judgment."

~~(c)~~ If a counsel listed on Exhibit "B" believes that, notwithstanding the Decision and this Judgment, it has a good faith basis to maintain that its lawsuit against New

~~GM should not be dismissed, it shall file a No Dismissal Pleading with this Court within 17 business days of this Judgment. The No Dismissal Pleading shall not reargue issues that were already decided by the Decision and Judgment. If a No Dismissal Pleading is timely filed, New GM shall have 17 business days to respond to such pleading. The Court will schedule a hearing thereon if it believes one is necessary.~~

~~(d) For any lawsuit of the Ignition Switch Plaintiffs listed on Exhibit "B" that is dismissed pursuant to this Judgment, (i) the statute of limitations shall be tolled from the date of dismissal to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Ignition Switch Plaintiffs can maintain the lawsuit against New GM heretofore dismissed pursuant to this Judgment, all of the Ignition Switch Plaintiffs' rights against New GM that existed prior to the dismissal of their lawsuit shall be reinstated as if the dismissal never occurred.~~

~~11. (a) Subject to the other provisions of this paragraph 11 and unless already dismissed without prejudice pursuant to an order(s) entered in MDL 2543, the Ignition Switch Plaintiffs shall each amend their respective complaints on or before June 12, 2015, such that all allegations, claims and/or causes of action concerning an Old GM vehicle or part seeking to impose liability or damages based on Old GM conduct, or a successor liability theory of recovery are stricken, and only Independent Claims are pled. Exhibit "C" is a list of the lawsuits that are to be amended by the Ignition Switch Plaintiffs. The lawsuits identified on Exhibit "C" include the Post Sale Consolidated Complaint.~~

~~(b) Within two (2) business days of the entry of this Judgment, New GM shall serve a copy of this Judgment on counsel in the lawsuits identified on Exhibit "C", by e~~

~~mail, facsimile, overnight mail or, if none of the foregoing are available, regular mail, with a cover note that states: "The attachment is the Judgment entered by the Bankruptcy Court. Please review the Judgment, including without limitation, the provisions of paragraph 11 of the Judgment."~~

~~(c) If a counsel listed in the lawsuits on Exhibit "C" believes that, notwithstanding the Decision and this Judgment, it has a good faith basis to maintain that its allegations, claims or causes of action against New GM, should not be stricken, it shall file a pleading with this Court within 17 business days of this Judgment ("No Strike Pleading"). The No Strike Pleading shall not reargue issues that were already decided by the Decision and Judgment. If a No Strike Pleading is timely filed, New GM shall have 17 business days to respond to such pleading. The Court will schedule a hearing thereon if it believes one is necessary.~~

~~(d) If an Ignition Switch Plaintiff fails to either (i) amend their respective complaints on or before June 12, 2015, such that all allegations, claims and/or causes of action concerning an Old GM vehicle or part seeking to impose liability or damages based on Old GM conduct, or a successor liability theory of recovery are stricken, and only Independent Claims are pled, or (ii) timely file a No Strike Pleading with the Court within the time period set forth above, New GM shall be permitted to file with this Court a notice of presentment on five (5) business days' notice, with an attached order ("Strike Order") that directs the Ignition Switch Plaintiff to strike specifically identified allegations, claims and/or causes of action contained in their complaint that violate the Decision, this Judgment and/or the Sale Order (as modified by the Decision and Judgment), within 17 business days of receipt of the Strike Order.~~

~~(e) For any allegations, claims or causes of action of the Ignition Switch Plaintiffs listed on Exhibit “C” that are stricken pursuant to this Judgment, (i) the statute of limitations shall be tolled from the date of the amended complaint to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Ignition Switch Plaintiffs can maintain the claims or causes of action against New GM heretofore stricken pursuant to this Judgment, all of the Ignition Switch Plaintiffs’ rights against New GM that existed prior to the striking of such claims or causes of action pursuant to this Judgment shall be reinstated as if the striking of such claims or causes of action never occurred.~~

9. ~~12.~~ The lawsuits captioned *People of California v. General Motors LLC, et al.*, No. 30-2014-00731038-CU-BT-CXC (Orange County, Cal.) and *State of Arizona v. General Motors LLC*, No. CV2014-014090 (Maricopa County, Ariz.) shall remain stayed without prejudice to the plaintiffs in such lawsuits seeking relief from the stay in this Bankruptcy Court for good cause shown. be subject to appropriate motion practice in the courts where those proceedings are currently pending, consistent with the Decision and this Judgment.

10. ~~13. (a) To the fullest extent permissible,~~ The rulings set forth herein and in the Decision that proscribe claims and actions being taken against New GM or the GUC Trust shall apply equally to the Non Ignition Switch Pre Closing Accident Plaintiffs and the Non Ignition Switch Plaintiffs including those identified on Exhibit “D” attached hereto. As a result, the Sale Order remains unmodified and in full force and effect with respect to the Non Ignition Switch Pre Closing Accident Plaintiffs and Non Ignition Switch Plaintiffsto the “Identified Parties”² who were heard during the proceedings regarding the Four Threshold

² “Identified Parties” as defined in the Court’s Scheduling Order entered on May 16, 2014 (ECF No. 12697), and persons that have asserted Pre-Closing personal injury and wrongful death claims against New GM based on the Ignition Switch Defect (as defined in the Decision).

Issues. They shall also apply to other plaintiffs in these proceedings, subject to any objection (“**Objection Pleading**”) submitted by any such party within 17 business days of the entry of this Judgment. New GM shall file a response to any such Objection Pleading within 17 business days of service. The Court will schedule a hearing thereon if it believes one is necessary. The rulings set forth herein are without prejudice to the submission of other objections to New GM’s Motions to Enforce Sale Order. To the extent an issue shall arise in the future as to whether (i) the Non-Ignition Switch Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs were known or unknown creditors of the Debtors, ~~(ii) the doctrine of equitable mootness bars the use of any GUC Trust Assets to satisfy late-filed claims of the Non-Ignition Switch Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs, or~~ ~~(iii) or (ii)~~ the Non-Ignition Switch Pre-Closing Accident Plaintiffs or Non-Ignition Switch Plaintiffs were otherwise bound by the provisions of the Sale Order, the Non-Ignition Switch Pre-Closing Accident Plaintiffs or Non-Ignition Switch Plaintiffs shall be required to first seek resolution of such issues from this Court before proceeding any further against New GM and/or the GUC Trust.

~~(b) Within two (2) business days of the entry of this Judgment, New GM shall serve a copy of this Judgment on counsel for the Non-Ignition Switch Pre-Closing Accident Plaintiffs or Non-Ignition Switch Plaintiffs identified on Exhibit “D”, by e-mail, facsimile, overnight mail or, if none of the foregoing are available, regular mail, with a cover note that states: “The attachment is the Judgment entered by the Bankruptcy Court. Please review the Judgment, including without limitation, the provisions of paragraph 13 of the Judgment.”~~

~~(c) If a counsel for a Non-Ignition Switch Pre-Closing Accident Plaintiff or Non-Ignition Switch Plaintiff listed on Exhibit “D” believes that, notwithstanding the Decision~~

~~and this Judgment, it has a good faith basis to maintain that its lawsuit, or certain claims or causes of action contained therein, against New GM should not be dismissed or stricken, it shall file a No Dismissal Pleading with this Court within 17 business days of this Judgment. If a No Dismissal Pleading is timely filed, New GM shall have 17 business days to respond to such pleading. The Court will schedule a hearing thereon if it believes one is necessary.~~

~~(d) If counsel for a Non Ignition Switch Pre Closing Accident Plaintiff or a Non Ignition Switch Plaintiff believes that, notwithstanding the Decision and this Judgment, it has a good faith basis to believe that any of the GUC Trust Assets may be used to satisfy late proofs of claim filed by them that may ultimately be allowed by the Bankruptcy Court, it shall file a pleading with this Court within 17 business days of this Judgment (“**GUC Trust Asset Pleading**”). The GUC Trust Asset Pleading shall not reargue issues that were already decided by the Decision and Judgment. If a GUC Trust Asset Pleading is timely filed, the GUC Trust, the GUC Trust Unitholders and/or New GM shall have 17 business days to respond to such pleading. The Court will schedule a hearing thereon if it believes one is necessary.~~

~~(e) If a Non Ignition Switch Pre Closing Accident Plaintiff or Non Ignition Switch Plaintiff listed on Exhibit “D” fails to timely file a No Dismissal Pleading with the Court within the time period set forth in paragraphs 13(c) and (d) above, New GM shall be permitted to file with this Court a notice of presentment on five (5) business days’ notice, with an attached order (“**Dismissal Order**”) that directs the Non Ignition Switch Pre Closing Accident Plaintiff or Non Ignition Switch Plaintiff to dismiss with prejudice its lawsuit, or certain claims or causes of action contained therein that violate the Decision, this Judgment and/or the Sale Order (as modified by the Decision and Judgment), within 17 business days of receipt of the Dismissal Order. For any lawsuit, or any claims or causes of action contained~~

~~therein, of the Non Ignition Switch Pre Closing Accident Plaintiffs or Non Ignition Switch Plaintiffs that are dismissed pursuant to this Judgment, (i) the statute of limitations shall be tolled from the date of dismissal to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal, such that the appellate court finds that the Non Ignition Switch Pre Closing Accident Plaintiffs or Non Ignition Switch Plaintiffs can maintain the lawsuit or claims or causes of action against New GM heretofore dismissed or stricken pursuant to this Judgment, all of the Non Ignition Switch Pre Closing Accident Plaintiffs' or Non Ignition Switch Plaintiffs' rights against New GM that existed prior to the dismissal of their lawsuit or the striking of claims or causes of action pursuant to this Judgment shall be reinstated as if the dismissal or the striking of such claims or causes of action never occurred.~~

~~14.~~ 11. The Court adopts the legal standard for “fraud on the court” as set forth in the Decision.

12. (a) By agreement of New GM, Designated Counsel for the Ignition Switch Plaintiffs, the GUC Trust, and the GUC Trust Unitholders, and approved by the Court, no discovery ~~in the Bankruptcy Court~~ was conducted in connection with the resolution of the Four Threshold Issues. The Ignition Switch Pre-Closing Accident Plaintiffs did not challenge the earlier decision ~~not to seek~~barring discovery ~~in the Bankruptcy Court~~ in connection with ~~the Bankruptcy Court's determination of the Four Threshold Issues.~~ Instead, New GM, Designated Counsel, the Groman Plaintiffs, the GUC Trust, and the GUC Trust Unitholders developed and submitted to the Court a set of agreed upon stipulated facts. Such parties also submitted to the Bankruptcy Court certain disputed facts and exhibits. ~~The Court decided the Four Threshold Issues on the agreed upon stipulated facts only.~~

(b) The Court finds that the agreed-upon factual stipulations were sufficient for purposes of determining the Four Threshold Issues, that none of the disputed factual stipulations raised a genuine issue of material fact as to any of the Four Threshold Issues, and that treating any of the disputed facts as part of the undisputed stipulated record would not have affected the Decision.

(c) The Groman Plaintiffs requested discovery with respect to the Four Threshold Issues but the other parties opposed the ~~discovery~~ request, and the Court denied said request. The Groman Plaintiffs' ~~discovery~~continuing request for such discovery is also denied.

~~15.~~ (d) For these reasons (and others), the findings of fact in the Decision shall apply only for the purpose of this Court's resolution of the Four Threshold Issues and shall have no force or applicability in any other legal proceeding or matter, including without limitation, MDL 2543. ~~Notwithstanding the foregoing, in all events, however, the Decision and Judgment shall apply with respect to (a) the Court's interpretation of the enforceability of the Sale Order, and (b) the actions of the affected parties that are authorized and proscribed by the Decision and Judgment.~~

~~16.~~ 13. The Court shall retain exclusive jurisdiction, to the fullest extent permissible under law, to construe or enforce the Sale Order, this Judgment, and/or the Decision on which it was based.

14. ~~17.~~Pursuant to Bankruptcy Rule 8006(e)(1), for the reasons stated in the Decision, the Court hereby certifies this Judgment for direct appeal to the Circuit Court ("**Appeal**"). The Ignition Switch Plaintiffs, the Pre-Closing Accident Plaintiffs, the Non-Ignition Switch Plaintiffs, New GM, the GUC Trust, the GUC Trust Unitholders and the

Groman Plaintiffs each reserve all of their rights with respect to the Appeal, including the right to challenge any of the factual and legal findings made by the Court in the Decision and to challenge certification for direct appeal.

15. ~~18.~~—The parties have stipulated that they shall not file any voluntary supplemental statements regarding the Court’s certification of the Appeal as allowed pursuant to Bankruptcy Rule 8006(e)(2), and shall submit all statements either in support or against certification of the Appeal in the Circuit Court.

16. ~~19.~~—Count One of the amended complaint (“**Groman Complaint**”) filed in *Groman et al v. General Motors LLC* (Adv. Proc. No. 14-01929 (REG)) is dismissed with prejudice. The remaining counts of the Groman Complaint that deal with the “fraud on the court” issue are deferred and stayed until 30 days after all appeals of the Decision and Judgment are decided. With respect to Count One of the Groman Complaint, (i) the statute of limitations shall be tolled from the date of dismissal of Count One to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Groman Plaintiffs can maintain the cause of action in Count One of the Groman Complaint heretofore dismissed pursuant to this Judgment, the Groman Plaintiffs’ rights against New GM that existed as of the dismissal of Count One shall be reinstated as if the dismissal of Count One never occurred.

17. ~~20.~~—New GM is hereby authorized to serve this Judgment and the Decision upon any additional party (and/or their attorney) (each, an “**Additional Party**”) that commences a lawsuit ~~and/or is not otherwise on Exhibits “A” through “D” hereto~~ (each, an “**Additional Lawsuit**”) against New GM that would be proscribed by the Sale Order (as modified by the Decision and Judgment). Any Additional Party shall have 17 business days

upon receipt of service by New GM of the Decision and Judgment to dismiss, ~~with~~without prejudice, such Additional Lawsuit or the allegations, claims or causes of action contained in such Additional Lawsuit that would violate the Decision, this Judgment, and the Sale Order (as modified by the Decision and Judgment). If any Additional Party has a good faith basis to maintain that the Additional Lawsuit or certain allegations, claims or causes of action contained in such Additional Lawsuit should not be dismissed ~~with~~without prejudice, such Additional Party shall, within 17 business days upon receipt of the Decision and Judgment, file with this Court a pleading (“**No Dismissal Pleading**”) explaining why such Additional Lawsuit or certain claims or causes of action contained therein should not be dismissed ~~with~~without prejudice. The No Dismissal Pleading shall not reargue issues that were already decided by the Decision and Judgment. New GM shall file a response to the No Dismissal Pleading within 17 business days of service of the No Dismissal Pleading. The Court will schedule a hearing thereon if it believes one is necessary. If an Additional Party fails to either (i) dismiss ~~with~~without prejudice the Additional Lawsuit or the claims and/or causes of action contained therein that New GM asserts violates the Decision, Judgment, and/or Sale Order (as modified by the Decision and Judgment), or (ii) timely file a No Dismissal Pleading with the Court within the time period set forth above, New GM shall be permitted to file with this Court a notice of presentment on five (5) business days’ notice, with an attached Dismissal Order that directs the Additional Party to dismiss ~~with~~without prejudice the Additional Lawsuit or the claims and/or causes of action contained therein that violate the Decision, this Judgment and/or the Sale Order (as modified by the Decision and Judgment), within 17 business days of receipt of the Dismissal Order. With respect to any lawsuit that is dismissed pursuant to this Paragraph, (i) the statute of limitations shall be tolled from the date of

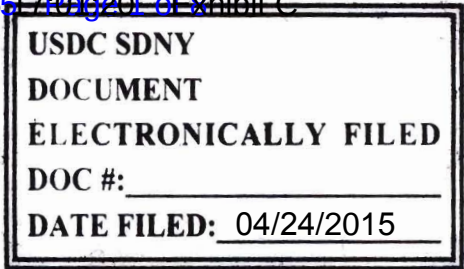
dismissal of such lawsuit to 30 days after all appeals of the Decision and Judgment are decided, and (ii) if the Decision and Judgment are reversed on appeal such that the appellate court finds that the Additional Party can maintain the lawsuit heretofore dismissed pursuant to this Judgment, the Additional Party's rights against New GM that existed as of the dismissal of the lawsuit shall be reinstated as if the dismissal of the lawsuit never occurred. For the avoidance of doubt, nothing in this Paragraph ~~2017~~ shall apply to the Amended Consolidated Complaint to be filed in the MDL 2543 proceeding on or before June 12, 2015.

Dated: New York, New York
May __, 2015

UNITED STATES BANKRUPTCY JUDGE

Summary Report:	
Litéra® Change-Pro TDC 7.0.0.375 Document Comparison done on 5/12/2015 4:46:30 PM	
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Table Insert	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format Changes	1
Total Changes:	161

EXHIBIT C



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION

14-MD-2543 (JMF)
14-MC-2543 (JMF)

This Document Relates To All Actions
-----x

ORDER NO. 50

JESSE M. FURMAN, United States District Judge:

**[Reconsidering and Amending Order No. 29
Regarding the Effect of the Consolidated Complaints]**

This matter is before the Court on the motion of the *Elliott, Sesay* and *Bledsoe* plaintiffs to reconsider Order No. 29 (14-MD-2543 Docket No. 477), regarding the effect on the claims of economic loss plaintiffs of consolidated complaints filed by Lead Counsel pursuant to Order No. 7 on October 14, 2014 (14-MD-2543, Docket Nos. 345, 347), and any amendments to those Consolidated Complaints pursuant to the procedures set forth below. As noted in Order No. 39 (14-MD-2543 Docket No. 671), the motion for reconsideration is GRANTED.

Specifically, upon due consideration of the parties' submissions and proposed orders (14-MD-2543 Docket Nos. 809, 810; *see also* 14-MD-2543 Docket Nos. 502, 553, 554, 571), and having given the parties an opportunity to comment on the Court's own proposed order (*see* Order No. 49, 14-MD-2543 Docket No. 855), the Court determines that Order No. 29 should be: (1) clarified to specify that all dismissals are, unless and until the Court orders otherwise, without prejudice; (2) modified to provide a procedure to allow certain economic loss plaintiffs not named in the amended Consolidated Complaints to challenge the dismissal of their claims; and (3) revised to protect the due process rights of economic loss plaintiffs, such that dismissal of their individual complaints in order to streamline these proceedings does not preclude such plaintiffs from (a) recovering as a member of any class that might be certified or (b) pursuing claims, should a plaintiff choose to do so, if no class is certified or

if the plaintiff opts out of a class that is certified.

Accordingly, this Order supersedes Order No. 29 in its entirety, except that Order No. 29 remains intact insofar as it dismissed, without prejudice, the allegations, claims, and defendant(s) included in complaints that already had been transferred to or were filed in MDL 2543 as of the date of entry of that Order and not included in the Consolidated Complaints, which complaints were listed in Order No. 29, Exhibit A. (*See* 14-MD-2543 Docket No. 477; *see* ¶ 6, *infra*).

Background

In Order No. 7, the Court directed Lead Counsel to review all the existing complaints and “file a consolidated or master complaint with claims on behalf of the class or classes, as appropriate. After doing so, any counsel who believed that their claims should have been included, but were not, would have an opportunity to object.” The Court’s intent was that the Consolidated Complaints “would streamline and clarify the [economic loss] claims and help eliminate those that are duplicative, obsolete, or unreflective of developing facts or current law.” (Order No. 7 (14-MD-2543 Docket No. 215) at 3). In Order No. 8, the Court set a schedule for filing the Consolidated Complaints, which provided opportunities for other plaintiffs’ counsel to submit comments on the draft Consolidated Complaints and to object to the final Consolidated Complaints. (Order No. 8 (14-MD-2543 Docket No. 249) at 5).

On October 14, 2014, Lead Counsel filed two Consolidated Complaints (14-MD-2543 Docket Nos. 345, 347). The first Consolidated Complaint asserts economic loss claims concerning GM-branded vehicles (manufactured by either General Motors Corporation (“Old GM”) or General Motors LLC (“New GM”)) that were acquired July 11, 2009 or later. The second Consolidated Complaint asserts economic loss claims for owners of vehicles manufactured by Old GM and purchased before July 11, 2009. In each, New GM was the sole defendant. Each of the Consolidated Complaints includes the following caveat:

This pleading neither waives nor dismisses any claims for relief against any defendant not included in this pleading that are asserted by any other plaintiffs in actions that have been or will be made part of this MDL proceeding, except by operation of the class notice and (with respect to any 23(b)(3) class) any opt-out provisions on claims or common questions asserted in this Complaint and certified by this Court.

(14-MD-2543 Docket No. 345 at 1; 14-MD-2543 Docket No. 347 at 2). The Consolidated Complaint as to vehicles manufactured by Old GM and purchased before July 11, 2009, further alleges that “[c]ertain claims for certain parties may, consistent with 28 U.S.C. § 1407 and the caselaw thereunder, be matters for determination on remand by transferor courts.” (14-MD-2543 Docket No. 347 at 2).

The Court and certain of the parties are concerned that the above language in the Consolidated Complaints may create ambiguity as to the status of economic loss claims not asserted in the Consolidated Complaints. To clarify the effect of the Consolidated Complaints (and any amended Consolidated Complaints) on claims asserted in these MDL proceedings, the Court makes the following findings and adopts the following procedures.

General Provisions

1. In its June 9, 2014 Transfer Order transferring the MDL 2543 proceedings to this Court, the Judicial Panel on Multidistrict Litigation found that “[c]entralization under Section 1407 will eliminate duplicate discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary.” *In re: General Motors LLC Ignition Switch Litigation*, 26 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014).

2. Order Nos. 7, 29, and this Order were and are intended to streamline and simplify the operation and management of MDL 2543 by reducing the need of the parties to file or respond to (and the Court to decide) pretrial motions in multiple underlying complaints. The Consolidated Complaints and their amendments are intended to bring together common allegations and claims asserted by economic loss plaintiffs in these MDL proceedings. The Consolidated Complaints have

been, and will continue to be, critical tools to organize and conduct motion practice, both here and in the Bankruptcy Court, to address class certification, and to manage the discovery process. They are the operative pleadings for these purposes.

3. The provisions of this Order do not extinguish the claims of individual plaintiffs in the event class certification is denied, or the presentation of claims by individual plaintiffs who exclude themselves from any class that is certified, under procedures to be prescribed by the Court (after hearing from the parties) in connection with its class certification determinations.

Procedures for Dismissal Without Prejudice

4. As stated on the record at the status conference earlier today, Lead Counsel has until June 12, 2015 (*i.e.*, almost six weeks after May 5, 2015, the expected date for substantial completion of Phase One discovery pursuant to Order No. 20) to amend the Consolidated Complaints based upon discovery or other developments in the case, including the April 15, 2015 ruling — and any subsequent rulings — by the Bankruptcy Court. Thereafter, it shall be presumed that no further amendment will be permitted, except upon good cause shown as to factual matters and claims that are thereafter revealed by discovery or alleged for the first time in cases that are transferred to or filed in the MDL after the above-described deadline.

5. The Court has designated the Consolidated Complaints as the operative class action complaints in these MDL 2543 proceedings. The Court entrusts Lead Counsel with the identification and appropriate pleading of common claims asserted in the lawsuits consolidated in this MDL, after consultation with other plaintiffs' counsel, subject to the procedures for objections to be described in the paragraphs and sub-paragraphs below. Accordingly:

- (a) By joining the Consolidated Complaints, those plaintiffs named in the Consolidated Complaints have amended their prior pleadings, and — to the extent they were not already dismissed pursuant to the terms of Order No. 29 — their underlying complaints are

dismissed without prejudice. The underlying complaints of any plaintiffs added to any amended Consolidated Complaints (*see* ¶ 4, *supra*) will be deemed dismissed on the date of the submission of those Complaints (*see* ¶ 7, *infra*).

- (b) Lead Counsel shall provide a copy of any draft amended Consolidated Complaints by secure electronic means to counsel for each economic loss plaintiff fourteen (14) days prior to the amendment deadline. Plaintiffs' counsel will provide Lead Counsel with any comments or proposed changes seven (7) days prior to the amendment deadline.
- (c) Plaintiffs will have fourteen (14) days from the filing of the amended Consolidated Complaints to object and Lead Counsel shall have fourteen (14) days to respond. Any such objections and responses shall not exceed five (5) single-spaced pages and shall be filed in both 14-MD-2543 and 14-MC-2543. No replies shall be allowed without leave of Court.

6. With respect to complaints filed in or transferred to this MDL before December 18, 2014, allegations, claims, and defendant(s) not included in the Consolidated Complaints, as well as the complaints of plaintiffs not named in the Consolidated Complaints, were dismissed without prejudice effective December 18, 2014. (*See* Order No. 29, Ex. A). The time to object to that dismissal without prejudice of the cases identified on Order No. 29, Exhibit A having passed, all of those complaints — with the sole exceptions of the *Elliott*, *Bledsoe*, and *Sesay* complaints, which were reinstated by the Court on March 13, 2015 (*see* Order No. 39 (14-MD-2543, Docket No. 671) § VII) — remain dismissed.

7. With respect to complaints filed in or transferred to this MDL since December 18, 2014, up until the time of the filing of the amended Consolidated Complaints, any allegations, claims and defendant(s) that are not included in the amended Consolidated Complaints shall be deemed dismissed without prejudice with respect to the plaintiffs named in such amended Consolidated

Complaints; and any allegations, claims and defendant(s) shall be deemed dismissed without prejudice with respect to plaintiffs who are not named in such amended Consolidated Complaints, unless such plaintiff not named in the Consolidated Complaints seeks leave of Court to reinstate his/her claims, for good cause shown, within fourteen (14) days of the filing of amended Consolidated Complaints. Lead Counsel shall file, concurrently with the amended Consolidated Complaints, a list of the allegations, claims, and/or defendant(s) to be dismissed without prejudice pursuant to this paragraph.

8. With respect to claims transferred to or filed in MDL 2543 after the filing of amended Consolidated Complaints, Lead Counsel shall have 60 days following transfer or filing to seek leave to amend the Consolidated Complaints, for good cause shown, to address any factual matter, claims and/or defendant(s) raised for the first time in such pleadings. If Lead Counsel do not seek leave to amend the Consolidated Complaints within the 60-day period, or if the requested amendment is denied by the Court, then any allegations, claims, and defendant(s) not included in the amended Consolidated Complaints shall be dismissed without prejudice at the expiration of the 60-day period or the Court's order denying the amendment, whichever occurs first, unless such plaintiff not named in the Consolidated Complaints sustains an objection to dismissal pursuant to the following procedure:

- a. On August 15, 2015, and every month thereafter (*i.e.*, on the fifteenth day of every month) until the Court orders otherwise, Lead Counsel and Counsel for New GM shall jointly submit a list of allegations, claims, and defendant(s) in later-filed complaints to be dismissed without prejudice pursuant to this paragraph.
- b. Any such plaintiff not named in the Consolidated Complaints may seek leave of Court to reinstate his/her claims, for good cause shown, within fourteen (14) days of the filing of the list naming his/her complaint to object to dismissal. Lead

Counsel and New GM shall have fourteen (14) days to respond. Any such objections and responses shall not exceed five (5) single-spaced pages and shall be filed in both 14-MD-2543 and 14-MC-2543. No replies shall be allowed without leave of Court.

9. The parties should meet and confer with an eye toward proposing an order to be entered after Plaintiffs file the amended Consolidated Complaints to ensure that motion practice and discovery with respect to common issues of fact and law are conducted as part of these MDL proceedings. Among other things, the proposed order should create a process requiring any Plaintiffs' counsel with allegations, claims, or defendants not included in the amended Consolidated Complaints to coordinate with Lead Counsel to ensure that discovery as to common issues of law and fact is completed as part of the MDL proceedings. Additionally, the parties should discuss whether, when, and how the Court should create a process to litigate the viability of allegations, claims, or defendants not included in the amended Consolidated Complaints.

10. For any allegations, claims, and defendants that have been or will be dismissed pursuant to Order No. 29 or this Order, the statute of limitations shall be tolled from the date of dismissal to 30 days after the Court decides Lead Counsel's motion for class certification.

Obligations of the Parties with Respect to Allegations, Claims, or Defendant(s) that are Reinstated Pursuant to the Preceding Paragraphs

11. If any allegations, claims or dismissed defendant(s) are reinstated after dismissal without prejudice pursuant to Order No. 29 or this Order, such individual economic loss plaintiff shall serve, in accordance with Order No. 30 (14-MD-2543 Docket No. 758), a plaintiff fact sheet ("PFS") within 30 days of this Order or of such reinstatement, whichever is later. Other than the obligation to serve a PFS, any individual economic loss action that is not dismissed pursuant to Order No. 29 or this Order shall be stayed and no motion or responsive pleading to any allegations or claims or on behalf of a defendant reinstated by the Court shall be due unless and until ordered by the Court.

Procedure for Objecting to Application of Rulings on the Consolidated Complaints to Underlying Actions

12. In order to achieve the efficiencies of consolidation while respecting the principle that consolidation may not diminish the rights of plaintiffs, the Court adopts the following procedure to apply rulings made on the basis of consolidated pleadings to non-consolidated actions (*i.e.*, actions involving plaintiffs not named in the Consolidated Complaints). Rulings made with respect to the Consolidated Complaints shall apply to non-consolidated actions unless challenged as follows: Upon the application of any party to these MDL proceedings — to be made no later than fourteen (14) days following a Court ruling on the Consolidated Complaints — a party in a non-consolidated action shall be required to show cause within fourteen (14) days why a ruling made on the basis of the Consolidated Complaints should not apply to the non-consolidated action. The initial moving party shall then have seven (7) days to respond. Absent leave of Court, any such show cause papers and responses shall not exceed five (5) single-spaced pages and shall be filed in both 14-MD-2543 and 14-MC-2543. No replies shall be allowed without leave of Court.

SO ORDERED.

Date: April 24, 2015
New York, New York



JESSE M. FURMAN
United States District Judge

EXHIBIT D

COPY

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[Additional Counsel on Signature Page]

Attorneys for Plaintiff
State of Arizona

THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA, *ex rel.* THOMAS C.
HORNE, Attorney General,

Plaintiff,

vs.

GENERAL MOTORS LLC,

Defendant.

Case No. CV2014-014090

**COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF**

(Non-classified Civil; Consumer Fraud)

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For its Complaint against Defendant General Motors LLC (“New GM”), Plaintiff State of Arizona (the “State”) *ex rel.* Thomas C. Horne, the Attorney General, alleges as follows:

I. INTRODUCTION

1. This action is brought pursuant to the Arizona Consumer Fraud Act (A.R.S. § 44-1521, *et seq.*) to obtain injunctive relief to permanently enjoin and prevent the unlawful acts and practices alleged in this Complaint, and to obtain other relief, including disgorgement, civil penalties, costs of investigation and attorneys’ fees.

2. This Complaint arises from New GM’s egregious violation of two fundamental rules all manufacturers must follow if they do business in the State of Arizona.

3. Rule No. 1: Manufacturers of any product—from toys to automobiles—must make and sell products that are, above all else, safe to use. Safety is not only essential to long-term brand value, it is also required by law.

4. Rule No. 2: Manufacturers must also tell the complete truth about the safety of their products. When a safety defect does occur, manufacturers must promptly initiate some form of recall to address the problem.

5. New GM violated both of these rules. It manufactured and sold millions of vehicles that were not safe, including hundreds of thousands in Arizona, and it failed to remedy serious defects in millions of older GM-branded vehicles.¹ As New GM has belatedly disclosed in scores of recalls in 2014, safety defects affected over 27 million GM-branded vehicles on the road in the United States. These vehicles were not recalled until 2014, but the vast majority of them should have been recalled years earlier.

¹ The term “GM-branded vehicles” refers to vehicles manufactured and sold by both New GM, and its predecessor, “Old GM.”

6. New GM led consumers in Arizona and across the country to believe that, after bankruptcy, it was a new company. For example, in numerous public announcements and public filings, New GM repeatedly proclaimed that it was a company committed to innovation, safety, and maintaining a strong brand.

7. New GM was successful in selling its story that it had changed its “processes and culture” and was building “the best vehicles in the world.” Sales of all New GM models went up, including in Arizona, and New GM became profitable. As far as the public knew, a new General Motors was born, and the GM brand once again stood strong in the eyes of consumers.

8. New GM’s brand image was an illusion given the company’s egregious failure to disclose, and its affirmative concealment of, ignition switch defects and a plethora of other safety defects in GM-branded vehicles.

9. New GM concealed the existence of many known safety defects plaguing many models and years of GM-branded vehicles, and hid the fact that New GM valued cost-cutting over safety.

10. At the same time, New GM marketed its vehicles as “safe” and “reliable,” and claimed that it built the “world’s best vehicles.” Consequently, New GM intentionally enticed Arizona consumers to buy or lease new or used GM-branded vehicles that have now diminished in value as the truth about the New GM brand has come out and a stigma has attached to all GM-branded vehicles.

11. A vehicle made by a reputable manufacturer of safe and reliable vehicles is worth more than an otherwise similar vehicle made by a disreputable manufacturer that is known to devalue safety and to conceal serious defects from consumers and regulators.

12. New GM vehicle Safety Chief, Jeff Boyer, recently highlighted the heightened materiality to consumers of safety: “Nothing is more important than the safety of our customers

in the vehicles they drive.” Yet New GM failed to live up to this commitment, instead choosing to conceal at least 60 serious defects in over 27 million GM-branded vehicles sold in the United States.

13. The systematic concealment of known defects was deliberate, as New GM followed a consistent pattern of endless “investigation” and delay each time it became aware of a given defect.

14. Recently revealed documents show that New GM valued cost-cutting over safety, trained its personnel to *never* use the word “defect,” “stall,” or other words suggesting that any GM-branded vehicles are defective, routinely chose the cheapest part supplier without regard to safety, and discouraged employees from acting to address safety issues.

15. In addition, New GM was plagued by what CEO Mary Barra calls “transactional decision making,” in which New GM employees “color[] inside the lines of their own precise job description without thinking independently or holistically,” *i.e.*, without looking at the larger issue of safety.²

16. In light of New GM’s systemic devaluation of safety issues, it is not surprising that, from the date of its inception, New GM itself produced a grossly inordinate number of vehicles with serious safety defects. Until this year, New GM was successful in concealing both its disregard of safety and the myriad defects that resulted from that disregard.

17. According to the administrator of the National Highway Traffic Safety Administration (“NHTSA”), New GM worked to hide documents from NHTSA and created firewalls to prevent people within New GM from “connecting the dots” with respect to safety issues and defects. New GM did so to keep information about safety issues and defects secret.

² TIME MAGAZINE, October 6, 2014, p. 36.

18. The array of concealed defects is astounding and goes far beyond the ignition switch defects, the belated revelation of which sparked GM's 2014 serial recalls. The defects affected virtually every safety system in GM-branded vehicles, including but by no means limited to the airbags, seatbelts, brakes, brake lights, electronic stability control, windshield wipers, sensing and diagnostic modules, and warning chimes.

19. Given the continuity of engineers, corporate counsel, and other key personnel from Old GM to New GM, New GM knew and was fully aware of the now infamous ignition switch defects (and many other serious defects in numerous models of GM-branded vehicles) *from the very date of its inception on July 11, 2009*. New GM was not born innocent.

20. New GM's claims that the defects were known only to lower level engineers are false. For example, current CEO Mary Barra, while head of product development, was informed in 2011 of a safety defect in the electronic power steering of several models. Despite 4,800 consumer complaints and more than 30,000 warranty repairs, GM waited until 2014 to disclose this defect.

21. On May 16, 2014, New GM entered into a Consent Order with NHTSA in which it admitted that it violated the Transportation Recall Enhancement, Accountability and Documentation Act ("TREAD Act") by not disclosing the ignition switch defect that gave rise to the February and March 2014 recalls, and agreed to pay the maximum available civil penalties for its violations.

22. New GM's false representations and/or omissions concerning the safety and reliability of its vehicles, and its concealment of a plethora of known safety defects plaguing its vehicles and its brand, caused Arizona residents to purchase GM-branded vehicles under false pretenses.

23. New GM's false representations and omissions harmed Arizona consumers because the emergence of the truth about New GM's abysmal safety record and culture of deceit, and its failure to promptly remedy known defects, has greatly diminished the value of GM-branded vehicles sold after the inception of New GM. For example: the 2010 and 2011 Chevrolet Camaro have both suffered a diminished value of \$2,000 when compared to the value of comparable vehicles; the 2009 Pontiac Solstice has diminished \$2,900 in value; the 2010 Cadillac STS had diminished in value by \$1,235 in September 2014; and the 2010 Buick LaCrosse had diminished by \$649 in that same month. New GM's egregious and widely-publicized conduct and the never-ending and piecemeal nature of New GM's recalls has so tarnished GM-branded vehicles that no reasonable consumer would pay the price they would have paid if the brand continued to mean safety and success.

24. These same false representations, omissions and acts of concealment violated the Arizona Consumer Fraud Act, A.R.S. § 44-1521, *et seq.* As a result, the State seeks injunctive relief preventing further violations of the Act, civil penalties, disgorgement of any profits, gain, gross receipts, or other benefit obtained by means of such unlawful practices, and the costs of litigation including attorneys' fees.

II. PARTIES, JURISDICTION AND VENUE

A. Plaintiff

25. Plaintiff is the State of Arizona, *ex rel.* Thomas C. Horne, the Attorney General of Arizona (the "State").

B. Defendant

26. Defendant General Motors LLC ("New GM") is a Delaware limited liability company with its principal place of business located at 300 Renaissance Center, Detroit, Michigan, and is a citizen of the States of Delaware and Michigan.

27. The sole member and owner of General Motors LLC is General Motors Holding LLC. General Motors Holdings LLC is a Delaware limited liability company with its principal place of business in the State of Michigan.

28. The sole member and owner of General Motors Holdings LLC is General Motors Company, which is a Delaware Corporation with its principal place of business in the State of Michigan, and is a citizen of the States of Delaware and Michigan.

29. New GM was incorporated in 2009 and, effective on July 11, 2009, acquired substantially all assets and assumed certain liabilities of General Motors Corporation (“Old GM”) through a Section 363 sale under Chapter 11 of the U.S. Bankruptcy Code.

30. This Court has jurisdiction to enter appropriate orders both prior to and following a determination of liability pursuant to the Arizona Consumer Fraud Act (A.R.S. § 44-1521, *et seq.*).

31. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

III. FACTUAL ALLEGATIONS

A. New GM Falsely Promoted All of Its Vehicles as Safe, Reliable, and High-Quality.

32. New GM was financially successful in emerging from the Old GM bankruptcy. Sales of all its models went up, and New GM became profitable. New GM claimed to have turned over a new leaf in the bankruptcy—a new GM was born, and the GM brand once again stood strong—or so consumers thought.

33. In 2010, New GM sold 4.26 million vehicles globally, an average of one every 7.4 seconds. Joel Ewanick, New GM’s global chief marketing officer at the time, described the success of one of its brands in a statement to the press: “Chevrolet’s dedication to compelling

designs, quality, durability and great value is a winning formula that resonates with consumers around the world.”³

34. New GM repeatedly proclaimed to the world and U.S. consumers that, once it emerged from bankruptcy in 2009, it was a new and improved company committed to innovation, safety, and maintaining a strong brand.

35. In New GM’s 2010 Annual Report, New GM proclaimed its products would “improve safety and enhance the overall driving experience for our customers.”

36. In that same Annual Report, New GM claimed it would create vehicles that would “define the industry standard.”

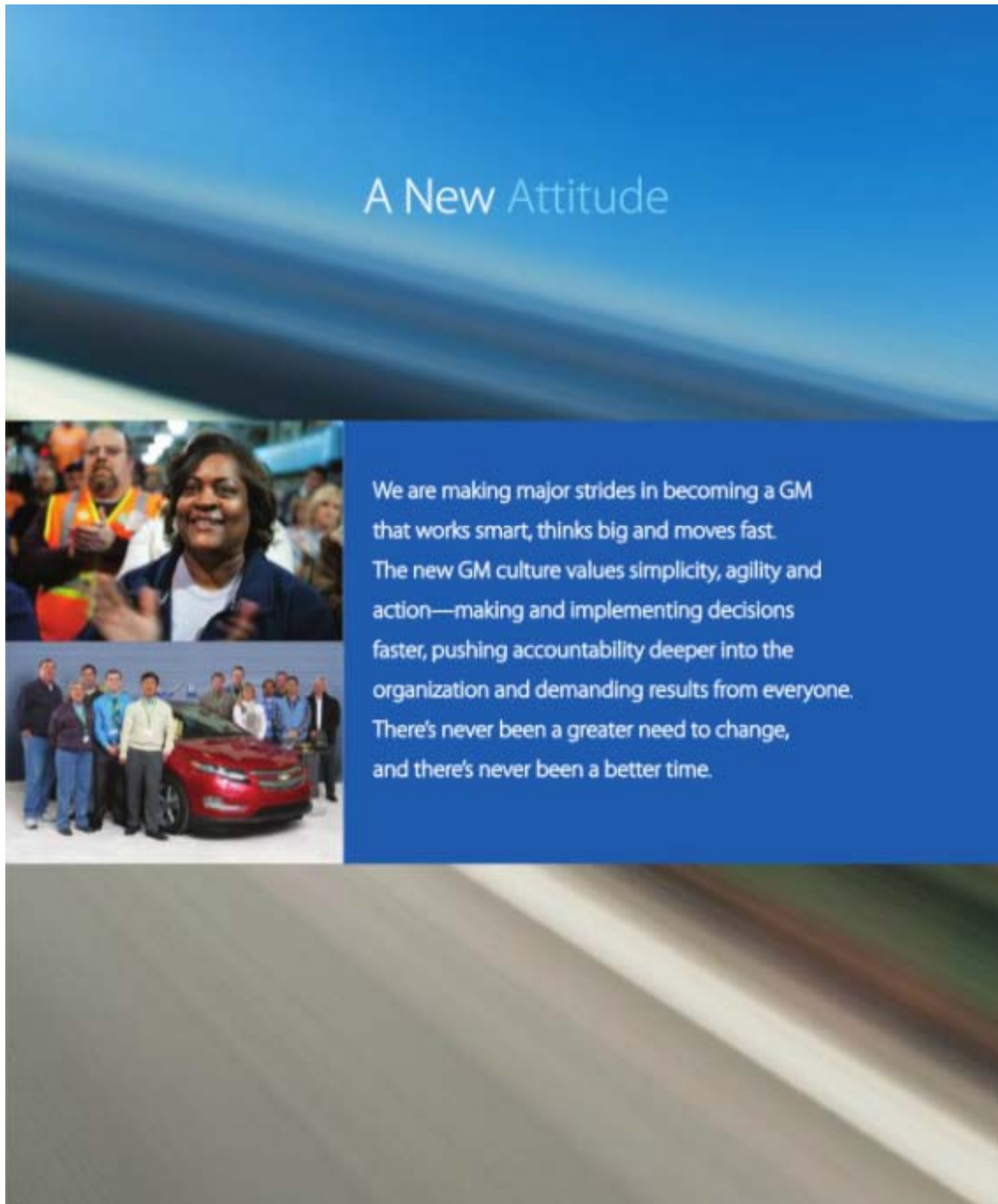
37. In its 2010 Annual Report, New GM told consumers that it built “the world’s best vehicles.”

38. New GM repeatedly put forward these themes—safety first, “design excellence, quality and performance,” and building “word class vehicles—as the core message about New GM’s Brand.

39. New GM repeatedly boasted of its new “culture”:

3

https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Jan/0117_chev_global.



General Motors Company 2010 Annual Report, p. 16.

40. In its 2011 Annual Report, New GM announced its commitment to leadership in vehicle safety:

Automotive

We offer a global vehicle portfolio of cars, crossovers and trucks. We are committed to leadership in vehicle design, quality, reliability, telematics and infotainment and safety, as well as to developing key energy efficiency, energy diversity and advanced propulsion technologies, including electric vehicles with range extending capabilities such as the Chevrolet Volt. Our business is

General Motors Company 2011 Annual Report, p. 11.

41. In a “Letter to Stockholders” contained in its 2011 Annual Report, New GM boasted that it was “creating vehicles that people desire, value and are proud to own, noted that its brand had grown in value and again proclaimed that it designed the “World’s Best Vehicles.”

42. These themes continued in New GM’s 2012 Annual Report:



DANIEL F. AKERSON
Chairman & Chief Executive Officer
with the 2014 Cadillac CTS

TO OUR STOCKHOLDERS:
Last year, I closed my letter to you by talking about how GM was changing its processes and culture in order to build the best vehicles in the world much more efficiently and profitably. This year, I want to pick up where I left off, and articulate what success looks like for you as stockholders, and for everyone else who depends on us. >>

General Motors Company 2012 ANNUAL REPORT 3

General Motors Company 2012 Annual Report, p. 3.

43. New GM touted its “focus on the customer” and its plan to be “great” and produce “quality” vehicles:

What is immutable is our focus on the customer, which requires us to go from “good” today to “great” in everything we do, including product design, initial quality, durability, and service after the sale.

General Motors Company 2012 Annual Report, p. 4.

44. New GM also indicated it had changed its structure to create more “accountability” which, as shown below, was a blatant falsehood:

That work continues, and it has been complemented by changes to our design and engineering organization that have flattened the structure and created more accountability for produce execution, profitability and customer satisfaction.

General Motors Company 2012 Annual Report, p. 10.

45. And New GM represented that product quality was a key focus—another blatant falsehood:

Product quality and long-term durability are two other areas that demand our unrelenting attention, even though we are doing well on key measures.

General Motors Company 2012 Annual Report, p. 10.

46. New GM’s 2013 Annual Report falsely proclaimed, “Nothing is more important than the safety of our customers.” General Motors Company 2013 Annual Report, p. 4.

B. New GM’s Advertising and Marketing Literature Falsely Claimed that GM Placed Safety and Quality First.

47. In May of 2014, New GM sponsored the North American Conference on Elderly Mobility. Gay Kent, director of New GM global vehicle safety and a presenter at the conference, proclaimed the primacy of safety within New GM’s new company culture: “The safety of all our customers is our utmost concern.”⁴

4

<https://media.gm.com/media/us/en/gm/news.detail./content/Pages/news/us/en/2014/May/0514-cameras>.

48. New GM vigorously incorporated this messaging into its public-facing communications. In advertisements and company literature, New GM consistently promoted all its vehicles as safe and reliable, and presented itself as a responsible manufacturer that stands behind GM-branded vehicles after they are sold. Examples of New GM's misleading claims of safety and reliability made in public statements, advertisements, and literature provided with its vehicles follow.

49. An online ad for "GM certified" used vehicles that ran from at least July 11, 2009, until April 5, 2010, stated that "GM certified means no worries."

50. In April 2010, General Motors Company Chairman and CEO Ed Whitacre starred in a video commercial on behalf of New GM. In it, Mr. Whitacre acknowledged that not all Americans wanted to give New GM a second chance, but that New GM wanted to make itself a company that "all Americans can be proud of again" and "exceed every goal [Americans] set for [General Motors]." He stated that New GM was "designing, building, and selling the best cars in the world." He continued by saying that New GM has "unmatched lifesaving technology" to keep customers safe. He concluded by inviting the viewer to take a look at "the new GM."⁵

51. A radio ad that ran from New GM's inception until July 16, 2010, stated that "[a]t GM, building quality cars is the most important thing we can do."

52. On November 10, 2010, New GM published a video that told consumers that New GM actually prevents any defects from reaching consumers. The video, entitled "Andy Danko: The White Glove Quality Check," explains that there are "quality processes in the plant that prevent any defects from getting out." The video also promoted the ideal that, when a customer buys a New GM vehicle, they "drive it down the road and they never go back to the dealer."⁶

⁵ <https://www.youtube.com/watch?v=jbXpV0aqEM4>.

⁶ https://www.youtube.com/watch?v=JRFO8UzoNho&list=UUxN-Csvy_9sveq15HJviDjA.

53. In 2010, New GM ran a television advertisement for its Chevrolet brand that implied its vehicles were safe by showing parents bringing their newborn babies home from the hospital, with the tagline “as long as there are babies, there will be Chevys to bring them home.”⁷

54. Another 2010 television ad informed consumers that “Chevrolet’s ingenuity and integrity remain strong, exploring new areas of design and power, while continuing to make some of the safest vehicles on earth.”

55. New GM’s 2010 brochure for the Chevy Cobalt states, “Chevy Cobalt is savvy when it comes to standard safety” and “you’ll see we’ve thought about safety so you don’t have to.” It also states “[w]e’re filling our cars and trucks with the kind of thinking, features and craftsmanship you’d expect to pay a lot more for.”⁸



 CHEVY To us, it's pretty simple: Build vehicles that anyone would be proud to own, and put them within reach. We offer more models than Toyota or Honda with 30 MPG HIGHWAY OR BETTER! We're backing our quality with the BEST COVERAGE IN AMERICA , which includes the 100,000 mile/5-year ² transferable Powertrain Limited Warranty plus Roadside Assistance and Courtesy	Transportation Programs. We're filling our cars and trucks with the kind of thinking, features and craftsmanship you'd expect to pay a lot more for. This philosophy has earned us more CONSUMERS DIGEST "BEST BUY" awards for 2009 models ³ than any other brand. So owning a Chevy isn't just a source of transportation. It's a source of pride. CHEVY.COM
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⁷ <https://www.youtube.com/watch?v=rb28vTN382g>.

⁸ https://www.auto-brochures.com/makes/Chevrolet/Cobalt/Chevrolet_US%20Cobalt_2010.pdf.

56. New GM's 2010 Chevy HHR brochure proclaims, "PLAY IT SAFE" and "It's easier to have fun when you have less to worry about."⁹

57. New GM's brochure for the 2011 Chevrolet Silverado states, "Silverado – the most dependable, long-lasting full size pickups on the road." It goes on to say, "There are three stages of safety. Silverado takes every one as seriously as you do."¹⁰

58. The brochure for the 2011 Cadillac DTS and STS states, "Passenger safety is a primary consideration throughout the engineering process," and "[t]he STS and DTS were carefully designed to provide a host of features to help you from getting into a collision in the first place."¹¹

59. On August 29, 2011, New GM's website advertised: "Chevrolet provides consumers with fuel-efficient, safe and reliable vehicles that deliver high quality, expressive design, spirited performance and value."¹²

60. On September 29, 2011, New GM announced on the "News" portion of its website the introduction of front center airbags. The announcement included a quote from Gay Kent, New GM Executive Director of Vehicle Safety and Crashworthiness, who stated that: "This technology is a further demonstration of New GM's above-and-beyond commitment to provide continuous occupant protection before, during and after a crash."¹³

⁹ https://www.auto-brochures.com/makes/Chevrolet/HHR/Chevrolet_US%20HHR_2010.pdf.

¹⁰ https://www.auto-brochures.com/makes/Chevrolet/Silverado/Chevrolet_US%20Silverado_2011.pdf.

¹¹ https://www.auto-brochures.com/makes/Cadillac/Cadillac_US%20STS-DTS_2011.pdf.

¹² <https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2014/Jul/0731-mpg>.

¹³ https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Sep/0929_airbag.

61. On December 27, 2011, Gay Kent was quoted in an interview on New GM's website as saying: "Our safety strategy is about providing continuous protection for our customers before, during and after a crash."¹⁴

62. New GM's brochure for the 2012 Chevrolet Impala proclaims: "A safety philosophy that RUNS DEEP," and that "if a moderate to severe collision does happen, Impala is designed to respond quickly."¹⁵

63. New GM's brochure for the 2012 Cadillac CTS, captioned "A Holistic Approach to Safety," announces, "At Cadillac, we believe the best way to survive a collision is to avoid one in the first place," and "Active safety begins with a responsive engine, powerful brakes, and an agile suspension."¹⁶

64. On January 3, 2012, Gay Kent, New GM Executive Director of Vehicle Safety, was quoted on New GM's website as saying: "From the largest vehicles in our lineup to the smallest, we are putting overall crashworthiness and state-of-the-art safety technologies at the top of the list of must-haves."¹⁷

65. An online national ad campaign for New GM in April 2012 stressed "Safety. Utility. Performance."

66. On June 5, 2012, New GM posted an article on its website announcing that its Malibu Eco had received top safety ratings from the National Highway Traffic Safety

¹⁴ https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2011/Dec/1227_safety.

¹⁵ https://www.chevrolet.com/content/dam/Chevrolet/northamerica/usa/nscwebsite/en/Home/Help%20Center/Download%20a%20Brochure/02_PDFs/2012_Impala_eBrochure.pdf.

¹⁶ https://www.auto-brochures.com/makes/Cadillac/CTS/Cadillac_US%20CTS_2012.pdf.

¹⁷ https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jan/0103_sonic.

Administration and the Insurance Institute for Highway Safety. The article includes the following quotes: “With the Malibu Eco, Chevrolet has earned seven 2012 TOP SAFETY PICK awards,” said IIHS President Adrian Lund. “The IIHS and NHTSA results demonstrate GM’s commitment to state-of-the-art crash protection.” And, “We are now seeing the results from our commitment to design the highest-rated vehicles in the world in safety performance,” said Gay Kent, New GM Executive Director of Vehicle Safety. “Earning these top safety ratings demonstrates the strength of the Malibu’s advanced structure, overall crashworthiness and effectiveness of the vehicle’s state-of-the-art safety technologies.”¹⁸

67. On June 5, 2012, New GM posted an article on its website entitled “Chevrolet Backs New Vehicle Lineup with Guarantee,” which included the following statement: “We have transformed the Chevrolet lineup, so there is no better time than now to reach out to new customers with the love it or return it guarantee and very attractive, bottom line pricing,” said Chris Perry, Chevrolet global vice president of marketing. “We think customers who have been driving competitive makes or even older Chevrolets will be very pleased by today’s Chevrolet designs, easy-to-use technologies, comprehensive safety and the quality built into all of our cars, trucks and crossovers.”¹⁹

68. On November 5, 2012, New GM published a video to advertise its “Safety Alert Seat” and other safety sensors. The video described older safety systems and then added that new systems “can offer drivers even more protection.” A “Cadillac Safety Engineer” added that there “are a variety of crash avoidance sensors that work together to help the driver avoid

¹⁸ https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jun/0605_malibu_safety.

¹⁹ https://media.gm.com/media/us/en/gm/news.detail/content/Pages/news/us/en/2012/Jul/0710_confidence.

crashes.” The engineer then discussed all the sensors and the safety alert seat on the Cadillac XTS, leaving the viewer with the impression safety was a top priority at Cadillac.²⁰

69. New GM’s brochure for the 2013 Chevrolet Traverse states, “Traverse provides peace of mind with an array of innovative safety features,” and “[i]t helps protect against the unexpected.”²¹



70. A national print ad campaign in April 2013 states that, “[w]hen lives are on the line, you need a dependable vehicle you can rely on. Chevrolet and GM ... for power, performance and safety.”

71. A December 2013 New GM testimonial ad stated that “GM has been able to deliver a quality product that satisfies my need for dignity and safety.”

²⁰ <https://www.youtube.com/watch?v=CBEvflZMTeM>.

²¹ https://www.auto-brochures.com/makes/Chevrolet/Traverse/Chevrolet_US%20Traverse_2013.pdf.

72. In 2013, New GM proclaimed on its website, <https://www.gm.com>, that the company's passion for building and selling the world's best vehicles is "the hallmark of our customer-driven culture."²²

73. On the same website in 2013, New GM stated: "At GM, it's about getting everything right for our customers – from the way we design, engineer and manufacture our vehicles, all the way through the ownership experience."²³

74. On its website, Chevrolet.com, New GM promises that it is "Putting safety ON TOP," and that "Chevy Makes Safety a Top Priority."²⁴



75. On its website, Buick.com, New GM represents that "Keeping you and your family safe is a priority."²⁵

76. New GM's website currently touts its purported "Commitment to Safety," which is "at the top of the agenda at GM."²⁶

²² https://www.gm.com/company/aboutGM/our_company.

²³ https://www.gm.com/vision/quality_safety/it_begins_with_a_commitment_to_Quality.

²⁴ <https://www.chevrolet.com/culture/article/vehicle-safety-preparation>.

²⁵ <https://www.buick.com/top-vehicle-safety-features>.

²⁶ https://www.gm.com/vision/quality_safety/gms_commitment_tosafety.

Innovation: Quality & Safety; GM's Commitment to Safety; Quality and safety are at the top of the agenda at GM, as we work on technology improvements in crash avoidance and crashworthiness to augment the post-event benefits of OnStar, like advanced automatic crash notification.

Understanding what you want and need from your vehicle helps GM proactively design and test features that help keep you safe and enjoy the drive. Our engineers thoroughly test our vehicles for durability, comfort, and noise minimization before you think about them. The same quality process ensures our safety technology performs when you need it.

77. New GM's website further promises "Safety and Quality First: Safety will always be a priority at New GM. We continue to emphasize our safety-first culture in our facilities," and that, "[i]n addition to safety, delivering the highest quality vehicles is a major cornerstone of our promise to our customers."²⁷

78. New GM's website currently states that "leading the way is our seasoned leadership team who set high standards for our company so that we can give you the best cars and trucks. This means that we are committed to delivering vehicles with compelling designs, flawless quality, and reliability, and leading safety, fuel economy and infotainment features..."²⁸

79. New GM made these and similar representations to boost vehicle sales while knowing that millions of GM-branded vehicles, across numerous models and years, were plagued with serious and concealed safety defects.

80. New GM was well aware of the impact vehicle recalls, and their timeliness, have on its brand image. In its 2010 Form 10-K submitted to the United States Securities and Exchange Commission ("SEC"), New GM admitted that "Product recalls can harm our reputation and cause us to lose customers, particularly if those recalls cause consumers to question the safety or reliability of our products. Any costs incurred or lost sales caused by future product recalls could materially adversely affect our business." General Motors 2010

²⁷ https://www.gm.com/company/aboutGM/our_company.

²⁸ https://www.gm.com/company/aboutGM/our_company.

Form 10-K, p. 31.²⁹ This is precisely why New GM chose to conceal safety issues rather than remedy them.

C. Contrary to its Barrage of Representations about Safety and Quality, New GM Concealed and Disregarded Safety Issues as a Way of Doing Business.

81. Ever since its inception, New GM possessed vastly superior (if not exclusive) knowledge and information to that of consumers about the design and function of GM-branded vehicles and the existence of the defects in those vehicles.

82. Recently revealed information presents a disturbing picture of New GM's approach to safety issues—both in the design and manufacturing stages, and in discovering and responding to defects in GM-branded vehicles that have already been sold.

83. New GM made very clear to its personnel that cost-cutting was more important than safety, deprived its personnel of necessary resources for spotting and remedying defects, trained its employees not to reveal known defects, and rebuked those who attempted to “push hard” on safety issues.

84. In stark contrast to New GM's public mantra that “Nothing is more important than the safety of our customers” and similar statements, a prime “directive” at New GM was “cost is everything.”³⁰ The messages from top leadership at New GM to employees, as well as their actions, were focused on the need to control cost.³¹

85. One New GM engineer stated that emphasis on cost control at New GM “permeates the fabric of the whole culture.”³²

²⁹ https://www.sec.gov/Archives/edgar/data/1467858/000119312510078119/d10k.htm#toc85733_4.

³⁰ Valukas Report at 249.

³¹ *Id.* at 250.

³² *Id.*

86. According to Mark Reuss (President of GMNA from 2009-2013 before succeeding Mary Barra as Executive Vice President for Global Product Development, Purchasing and Supply Chain in 2014), cost and time-cutting principles known as the “Big 4” at New GM “emphasized timing over quality.”³³

87. New GM’s focus on cost-cutting created major disincentives to personnel who might wish to address safety issues. For example, those responsible for a vehicle were responsible for its costs, but if they wanted to make a change that incurred cost and affected other vehicles, they also became responsible for the costs incurred in the other vehicles.

88. As another cost-cutting measure, parts were sourced to the lowest bidder, even if they were not the highest quality parts.³⁴

89. Because of New GM’s focus on cost-cutting, New GM engineers did not believe they had extra funds to spend on product improvements.³⁵

90. New GM’s focus on cost-cutting also made it harder for New GM personnel to discover safety defects, as in the case of the “TREAD Reporting team.”

91. New GM used its TREAD database (known as “TREAD”) to store the data required to be reported quarterly to NHTSA under the TREAD Act.³⁶ From the date of New GM’s inception in 2009, TREAD has been the principal database used by New GM to track incidents related to its vehicles.³⁷

92. From 2003-2007 or 2008, the TREAD Reporting team had eight employees who would conduct monthly searches and prepare scatter graphs to identify spikes in the number of

³³ *Id.*

³⁴ *Id.* at 251.

³⁵ *Id.*

³⁶ *Id.* at 306.

³⁷ *Id.*

accidents or complaints with respect to various GM-branded vehicles. The TREAD Reporting team reports went to a review panel and sometimes spawned investigations to determine if any safety defect existed.³⁸

93. In or around 2007-08, Old GM reduced the TREAD Reporting team from eight to three employees, and pared down the monthly data mining process.³⁹ In 2010, New GM restored two people to the team, but they did not participate in the TREAD database searches.⁴⁰ Moreover, until 2014, the TREAD Reporting team did not have sufficient resources to obtain any of the advanced data mining software programs available in the industry to better identify and understand potential defects.⁴¹

94. By starving the TREAD Reporting team of the resources it needed to identify potential safety issues, New GM helped to ensure that safety issues would not come to light.

95. “[T]here was resistance or reluctance to raise issues or concerns in the GM culture.” The culture, atmosphere and supervisor response at New GM “discouraged individuals from raising safety concerns.”⁴²

96. New GM CEO, Mary Barra, experienced instances where New GM engineers were “unwilling to identify issues out of concern that it would delay the launch” of a vehicle.⁴³

97. New GM supervisors warned employees to “never put anything above the company” and “never put the company at risk.”⁴⁴

³⁸ *Id.* at 307.

³⁹ *Id.*

⁴⁰ *Id.* at 307-308.

⁴¹ *Id.* at 208.

⁴² *Id.* at 252.

⁴³ *Id.*

⁴⁴ *Id.* at 252-253.

98. New GM systematically “pushed back” on describing matters as safety issues and, as a result, “GM personnel failed to raise significant issues to key decision-makers.”⁴⁵

99. So, for example, New GM discouraged the use of the word “stall” in Technical Service Bulletins (“TSBs”) that it sometimes sent to dealers about issues in GM-branded vehicles. According to Steve Oakley, who drafted a Technical Service Bulletin in connection with the ignition switch defects, “the term ‘stall’ is a ‘hot’ word that GM generally does not use in bulletins because it may raise a concern about vehicle safety, which suggests GM should recall the vehicle, not issue a bulletin.”⁴⁶ Other New GM personnel confirmed Oakley on this point, stating that “there was concern about the use of ‘stall’ in a TSB because such language might draw the attention of NHTSA.”⁴⁷

100. Oakley further noted that “he was reluctant to push hard on safety issues because of his perception that his predecessor had been pushed out of the job for doing just that.”⁴⁸

101. Many New GM employees “did not take notes at all at critical safety meetings because they believed GM lawyers did not want such notes taken.”⁴⁹

102. A New GM training document released by NHTSA as an attachment to its Consent Order sheds further light on the lengths to which New GM went to ensure that known defects were concealed. It appears that the defects were concealed pursuant to a company policy that New GM inherited from Old GM. The document consists of slides from a 2008 Technical Learning Symposium for “designing engineers,” “company vehicle drivers,” and other employees at Old GM. On information and belief, the vast majority of employees who

⁴⁵ *Id.* at 253.

⁴⁶ *Id.* at 92.

⁴⁷ *Id.* at 93.

⁴⁸ *Id.*

⁴⁹ *Id.* at 254.

participated in this webinar presentation continued on in their same positions at New GM after July 10, 2009.

103. The presentation focused on recalls and the “reasons for recalls.”

104. One major component of the presentation was captioned “Documentation Guidelines,” and focused on what employees should (and should not say) when describing problems in vehicles. Employees were instructed to “[w]rite smart,” and to “[b]e factual, not fantastic” in their writing. In practice, “factual” was a euphemism for avoiding facts and relevant details.

105. New GM vehicle drivers were given examples of comments to avoid, including the following: “This is a safety and security issue”; “I believe the wheels are too soft and weak and could cause a serious problem”; and “Dangerous ... almost caused accident.”

106. In documents used for reports and presentations, employees were advised to avoid a long list of words, including: “bad,” “dangerous,” “defect,” “defective,” “failed,” “flawed,” “life-threatening,” “problem,” “safety,” “safety-related,” and “serious.”

107. In truly Orwellian fashion, the company advised employees to use the words (1) “Issue, Condition [or] Matter” instead of “Problem”; (2) “Has Potential Safety Implications” instead of “Safety”; (3) “Broke and separated 10 mm” instead of “Failed”; (4) “Above/Below/Exceeds Specification” instead of “Good [or] Bad”; and (5) “Does not perform to design” instead of “Defect/Defective.”

108. As NHTSA’s Acting Administrator Friedman noted at the May 16, 2014 press conference announcing the Consent Order in connection with the February and March recall for the ignition switch defect, it was New GM’s company policy to avoid using words that might suggest the existence of a safety defect:

GM must rethink the corporate philosophy reflected in the documents we reviewed, including training materials that explicitly discouraged employees from using words like 'defect,' 'dangerous,' 'safety related,' and many more essential terms for engineers and investigators to clearly communicate up the chain when they suspect a problem.

109. Thus, New GM trained its employees to conceal the existence of known safety defects from consumers and regulators. Indeed, it is nearly impossible to convey the potential existence of a safety defect without using the words “safety” or “defect” or similarly strong language that was forbidden at New GM.

110. So institutionalized was the “phenomenon of avoiding responsibility” at New GM that the practice was given a name: “the ‘GM salute,’” which was “a crossing of the arms and pointing outward towards others, indicating that the responsibility belongs to someone else, not me.”⁵⁰

111. CEO Mary Barra described a related phenomenon, “known as the ‘GM nod,’” which was “when everyone nods in agreement to a proposed plan of action, but then leaves the room with no intention to follow through, and the nod is an empty gesture.”⁵¹

112. According to the New GM Report prepared by Anton R. Valukas (the “Valukas Report”), part of the failure to properly correct the ignition switch defect was due to problems with New GM’s organizational structure⁵² and a corporate culture that did not care enough about safety.⁵³ Other culprits included a lack of open and honest communication with NHTSA regarding safety issues,⁵⁴ and the improper conduct and handling of safety issues by lawyers

⁵⁰ Valukas Report at 255.

⁵¹ *Id.* at 256.

⁵² *Id.* at 259-260.

⁵³ *Id.* at 260-61.

⁵⁴ *Id.* at 263.

within New GM's Legal Staff.⁵⁵ On information and belief, all of these issues independently and in tandem helped cause the concealment of, and failure to remedy, the many defects that have led to the spate of recalls in 2014.

113. An automobile manufacturer has a duty to promptly disclose and remedy defects. New GM knowingly concealed information about material safety hazards from the driving public, and its own customers, including those in Arizona. As a result, hundreds of thousands of unsuspecting vehicle owners and lessees in Arizona continued driving patently unsafe vehicles that posed a mortal danger to themselves, their passengers and loved ones, other drivers, and pedestrians.

114. Not only did New GM take far too long in failing to address or remedy the defects, it deliberately worked to cover-up, hide, omit, fraudulently conceal, and/or suppress material facts from consumers who purchased GM-branded vehicles.

D. There Are Serious Safety Defects in Millions of GM-Branded Vehicles across Many Models and Years and, Until Recently, New GM Concealed Them from Consumers.

115. Over the first ten months of 2014, New GM announced at least 60 recalls for more than 60 separate defects affecting over 27 million GM-branded vehicles sold in the United States from model years 1997-2014. The numbers of recalls and serious safety defects are unprecedented, and can only lead to one conclusion: New GM was concealing the fact that it was incapable of building safe vehicles free from defects.

116. For context, in 2013, the whole auto industry in the United States issued recalls affecting 23 million vehicles, and the record for the whole industry in a given year is 31 million (in 2004). Thus, New GM's recalls just 10 months into this year impacts more vehicles than the

⁵⁵ *Id.* at 264.

entire industry's recalls did last year and is approaching the *industry-wide* record for a single year.

117. The available evidence shows that, from its inception in 2009, New GM knew about an ever-growing list of serious safety defects in millions of GM-branded vehicles, but concealed them from consumers and regulators in order to cut costs, boost sales, and avoid the negative publicity of recalls.

118. Unsurprisingly in light of New GM's systemic devaluation of safety issues, the evidence also shows that New GM has manufactured and sold a grossly inordinate number of vehicles with serious safety defects.

119. New GM inherited from Old GM a company that valued cost-cutting over safety, actively discouraged its personnel from taking a "hard line" on safety issues, avoided using "hot" words like "stall" that might attract the attention of NHTSA and suggest that a recall was required, and trained its employees to not use words such as "defect" or "problem" that might flag the existence of a safety issue. New GM did nothing to change these practices.

120. The Center for Auto Safety recently stated that it has identified 2,004 death and injury reports filed by New GM with federal regulators in connection with vehicles that have recently been recalled.⁵⁶ Many of these deaths and injuries would have been avoided had New GM complied with its TREAD Act obligations over the past five years.

121. The many defects concealed and/or created by New GM affect important safety systems in GM-branded vehicles, including the ignition, power steering, airbags, brake lights, gearshift systems, and seatbelts.

⁵⁶ See *Thousands of Accident Reports Filed Involving Recalled GM Cars: Report*, Irvin Jackson (June 3, 2014).

122. The available evidence shows a consistent pattern: New GM learned about a particular defect and, often only at the prodding of regulatory authorities, “investigated” the defect and decided upon a “root cause.” New GM then took minimal action—such as issuing a carefully worded “Technical Service Bulletin” to its dealers, or even recalling a limited number of the vehicles with the defect. All the while, the true nature and scope of the defects were kept under wraps, vehicles affected by the defects remained on the road, New GM continued to create new defects in new vehicles, and New GM enticed consumers to purchase its vehicles by touting the safety, quality, and reliability of its vehicles, and presenting itself as a manufacturer that stands behind its products.

123. Many of the defects are discussed below.

E. The Ignition Switch System Defects.

124. More than 13 million GM-branded vehicles were made and sold with an ignition switch and cylinder with the key position of the lock module located low on the steering column, in close proximity to a driver’s knee. The ignition switch in these vehicles, the “Defective Ignition Switch Vehicles,” is prone to fail during ordinary and foreseeable driving situations.

125. When the ignition switches fail, the vehicles stall, the power steering and power brakes fail, and the airbags will not deploy in the event of a collision.

126. New GM initially recalled 2.1 million of these Defective Ignition Switch Vehicles in February and March of 2014, and it was this initial recall that set in motion the avalanche of recalls that is described in this Complaint.

127. In June and July of 2014, New GM recalled an additional 11 million vehicles, ostensibly for distinct safety defects involving the ignition and ignition key. As set forth below, however, each of these recalls involves a defective ignition switch, and the consequences of product failure in each of the recalled vehicles are substantially similar, if not identical.

128. More specifically, in each of the Defective Ignition Switch Vehicles, the ignition switch can inadvertently move from the “run” to the “accessory” or “off” position at any time during normal and proper operation of the Defective Ignition Switch Vehicles. The ignition switch can move when the vehicle is jarred or travels across a bumpy road; if the key chain is heavy; if a driver inadvertently touches the ignition key with his or her knee; or for a host of additional reasons. When the ignition switch inadvertently moves out of the “run” position, the vehicle suddenly and unexpectedly loses engine power, power steering, and power brakes, and certain safety features are disabled, including the vehicle’s airbags. This leaves occupants vulnerable to crashes, serious injuries, and death.

129. The ignition switch systems at issue are defective in at least three major respects. First, the switches are simply weak; because of a faulty “detent plunger,” the switch can inadvertently move from the “run” to the “accessory” position. Second, because the ignition switch is placed low on the steering column, the driver’s knee can easily bump the key (or the hanging fob below the key) and cause the switch to inadvertently move from the “run” to the “accessory” or “off” position. Third, when the ignition switch moves from the “run” to the “accessory” or “off” position, the vehicle’s power is disabled. This also immediately disables the airbags. Thus, when power is lost during ordinary operation of the vehicle, a driver is left without the protection of the airbag system even if he or she is traveling at high speeds.

130. Vehicles with defective ignition switches are therefore unreasonably prone to be involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm or death to the drivers and passengers of the vehicles.

131. Indeed, New GM itself has acknowledged that the defective ignition switches pose an “increas[ed] risk of injury or fatality” and has linked the ignition switch defect to at least 13 deaths and over 50 crashes. Ken Feinberg, who was hired by New GM to settle wrongful

death claims arising from the ignition switch defects that led to the February and March 2014 recall, has already linked the defect to 30 deaths, and has many more wrongful death claims still to review. The Center for Auto Safety studied collisions in just two vehicle makes, and linked the defect to over 300 accidents. There is every reason to believe that as more information is made public, these numbers will continue to grow.

132. Alarming, New GM knew of the deadly ignition switch defects and their dangerous consequences from the date of its inception on July 11, 2009, but concealed its knowledge from consumers and regulators. To this day, New GM continues to conceal material facts regarding the extent and nature of this safety defect, as well as what steps must be taken to remedy the defect.

133. While New GM has instituted a recall of millions vehicles for defective ignition switches, it knew—*and its own engineering documents reflect*—that the defects transcend the design of the ignition switch and also include the placement of the ignition switch on the steering column, a lack of adequate protection of the ignition switch from forces of inadvertent driver contact, and the need to redesign the airbag system so that it is not immediately disabled when the ignition switch fails in ordinary and foreseeable driving situations. To fully remedy the problem and render the Defective Ignition Switch Vehicles safe and of economic value to their owners again, New GM must address these additional issues (and perhaps others).

134. Further, and as set forth more fully below, New GM's recall of the Defective Ignition Switch Vehicles has been, to date, incomplete and inadequate, and it underscores New GM's ongoing fraudulent concealment and fraudulent misrepresentation of the nature and extent of the defects. New GM has long known of and understood the ignition switch defects, and its failure to fully remedy the problems associated with this defect underscores the necessity of this law enforcement action.

1. New GM knew of the ignition switch defects from the date of its inception.

135. Effective July 11, 2009, a United States Bankruptcy Court approved the sale of General Motors Corporation, which was converted into General Motors, LLC, or New GM. From its creation, New GM, which retained the vast majority of Old GM's senior level executives and engineers, knew that Old GM had manufactured and sold millions of vehicles afflicted with the ignition switch defects.

136. The knowledge of Old GM is important and relevant because it is *directly attributable* to New GM. In light of its knowledge of the ignition switch defects, and the myriad of other defects, New GM violated the Arizona Consumer Fraud Act, and harmed Arizona consumers in the process.

137. In part, New GM's knowledge of the ignition switch defects arises from the fact that key personnel with knowledge of the defects were employed by New GM when Old GM ceased to exist. Moreover, many of these employees held managerial and decision making authority in Old GM, and accepted similar positions with New GM. For example, the design research engineer who was responsible for the rollout of the defective ignition switch in the Saturn Ion was Ray DeGiorgio. Mr. DeGiorgio continued to serve as an engineer at New GM until April 2014, when he was suspended (and ultimately fired) as a result of his involvement in the ignition switch crisis.

138. Mr. DeGiorgio was hardly the only employee who retained his Old GM position with New GM. Other Old GM employees who were retained and given decision making authority in New GM include: current CEO Mary T. Barra; director of product investigations Carmen Benavides; Program Engineering Manager Gary Altman; engineer Jim Federico; vice presidents for product safety John Calabrese and Alicia Boler-Davis; vice president of regulatory

affairs Michael Robinson; director of product investigations Gay Kent; general counsel and vice president Michael P. Milliken; and in-house product liability lawyer William Kemp.

139. Indeed, on or around the day of its formation as an entity, New GM acquired notice and full knowledge of the facts set forth below.

140. In 2001, during pre-production testing of the 2003 Saturn Ion, Old GM engineers learned that the vehicle's ignition switch could unintentionally move from the "run" to the "accessory" or "off" position. Old GM further learned that where the ignition switch moved from "run" to "accessory" or "off," the vehicle's engine would stall and/or lose power.

141. Delphi Mechatronics ("Delphi"), the manufacturer of many of the defective ignition switches in the Defective Ignition Switch Vehicles, informed Old GM that the ignition switch did not meet Old GM's design specifications. Rather than delay production of the Saturn Ion in order to ensure that the ignition switch met specifications, Old GM's design release engineer, Ray DeGiorgio, simply lowered the specification requirements and approved use of ignition switches that he knew did not meet Old GM's specifications.

142. In 2004, Old GM engineers reported that the ignition switch on the Saturn Ion was so weak and the ignition placed so low on the steering column that the driver's knee could easily bump the key and turn off the vehicle.

143. This defect was sufficiently serious for an Old GM engineer to conclude, in January 2004, that "[t]his is a basic design flaw and should be corrected if we want repeat sales."

144. A July 1, 2004 report by Siemens VDO Automotive analyzed the relationship between the ignition switch in GM-branded vehicles and the airbag system. The Siemens report concluded that when a GM-branded vehicle experienced a power failure, the airbag sensors were disabled. The Siemens report was distributed to at least five Old GM engineers. The Chevrolet Cobalt was in pre-production at this time.

145. In 2004, Old GM began manufacturing and selling the 2005 Chevrolet Cobalt. Old GM installed the same ignition switch in the 2005 Cobalt as it did in the Saturn Ion.

146. During testing of the Cobalt, Old GM engineer Gary Altman observed an incident in which a Cobalt suddenly lost engine power because the ignition switch moved out of the “run” position during vehicle operation.

147. In late 2004, while testing was ongoing on the Cobalt, Chief Cobalt Engineer Doug Parks asked Mr. Altman to investigate a journalist’s complaint that he had turned off a Cobalt vehicle by hitting his knee against the key fob.

148. Old GM opened an engineering inquiry known as a Problem Resolution Tracking System (“Problem Resolution”) to evaluate a number of potential solutions to this moving engine stall problem. At this time, Problem Resolution issues were analyzed by a Current Production Improvement Team (“Improvement Team”). The Improvement Team that examined the Cobalt issue beginning in late 2004 included a cross-section of business people and engineers, including Altman and Lori Queen, Vehicle Line Executive on the case.

149. Doug Parks, Chief Cobalt Engineer, was also active in Problem Resolution. On March 1, 2005, he attended a meeting whose subject was “vehicle can be keyed off with knee while driving.” Parks also attended a June 14, 2005 meeting that included slides discussing a NEW YORK TIMES article that described how the Cobalt’s engine could cut out because of the ignition switch problem.

150. In 2005, Parks sent an email with the subject, “Inadvertent Ign turn-off.” In the email, Parks wrote, “For service, can we come up with a ‘plug’ to go into the key that centers the ring through the middle of the key and not the edge/slot? This appears to me to be the only real, quick solution.”

151. After considering this and a number of other solutions (including changes to the key position and measures to increase the torque in the ignition switch), the CPIT examining the issue decided to do nothing.

152. Old and New GM engineer Gary Altman recently admitted that engineering managers (including himself and Ray DeGiorgio) knew about ignition switch problems in the Cobalt that could cause these vehicles to stall, and disable power steering and brakes, but launched the vehicle anyway because they believed that the vehicles could be safely coasted off the road after a stall. Mr. Altman insisted that “the [Cobalt] was maneuverable and controllable” with the power steering and power brakes inoperable.

153. On February 28, 2005, Old GM issued a bulletin to its dealers regarding engine-stalling incidents in 2005 Cobalts and 2005 Pontiac Pursuits (the Canadian version of the Pontiac G5).

154. In the February 28, 2005 bulletin, Old GM provided the following recommendations and instructions to its dealers—but not to the public in general:

There is potential for the driver to inadvertently turn off the ignition due to low key ignition cylinder torque/effort. The concern is more likely to occur if the driver is short and has a large heavy key chain.

In the case this condition was documented, the driver’s knee would contact the key chain while the vehicle was turning. The steering column was adjusted all the way down. This is more likely to happen to a person that is short as they will have the seat positioned closer to the steering column.

In cases that fit this profile, question the customer thoroughly to determine if this may be the cause. The customer should be advised of this potential and to take steps, such as removing unessential items from their key chains, to prevent it.

Please follow this diagnosis process thoroughly and complete each step. If the condition exhibited is resolved without completing every step, the remaining steps do not need to be performed.

155. On June 19, 2005, the NEW YORK TIMES reported that Chevrolet dealers were advising some Cobalt owners to remove items from heavy key rings so that they would not inadvertently move the ignition into the “off” position. The article’s author reported that his wife had bumped the steering column with her knee while driving on the freeway and the engine “just went dead.”

156. The NEW YORK TIMES contacted Old GM and Alan Adler, manager for safety communications, who provided the following statement:

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. Service advisers are telling customers they can virtually eliminate the possibility by taking several steps, including removing nonessential material from their key rings.

157. Between February 2005 and December 2005, Old GM opened multiple Problem Resolution inquiries regarding reports of power failure and/or engine shutdown in Defective Ignition Switch Vehicles.

158. One of these, opened by quality brand manager Steve Oakley in March 2005, was prompted by Old GM engineer Jack Weber, who reported turning off a Cobalt with his knee while driving. After Oakley opened the PRTS, Gary Altman advised that the inadvertent shut down was not a safety issue.

159. As part of the Problem Resolution, Oakley asked William Chase, an Old GM warranty engineer, to estimate the warranty impact of the ignition switch defect in the Cobalt and Pontiac G5 vehicles. Chase estimated that for Cobalt and G5 vehicles on the road for 26 months, 12.40 out of every 1,000 vehicles would experience inadvertent power failure while driving.

160. In September 2005, Old GM received notice that Amber Marie Rose, a 16 year-old resident of Clinton, Maryland, was killed in an accident after her 2005 Chevrolet Cobalt drove off the road and struck a tree head-on. During Old GM’s investigation, it learned that the

ignition switch in Amber's Cobalt was in the "accessory" or "off" position at the time of the collision. Upon information and belief, Old GM subsequently entered into a confidential settlement agreement with Amber's mother.

161. In December 2005, Old GM issued Technical Service Bulletin 05-02-35-007. The Bulletin applied to 2005-2006 Chevrolet Cobalts, 2006 Chevrolet HHRs, 2005-2006 Pontiac Pursuits, 2006 Pontiac Solstices, and 2003-2006 Saturn Ions. The Bulletin explained that "[t]here is potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort."

162. By the time it issued this Technical Services Bulletin, Old GM knew that there had been fatal incidents involving vehicles with the ignition switch defect. On November 17, 2005—shortly after Amber's death and immediately before Old GM issued the December Bulletin—a Cobalt went off the road and hit a tree in Baldwin, Louisiana. The front airbags did not deploy in this accident. Old GM received notice of the accident, opened a file, and referred to it as the "Colbert" incident.

163. On February 10, 2006, in Lanexa, Virginia—shortly after Old GM issued the Technical Service Bulletin—a 2005 Cobalt flew off of the road and hit a light pole. As with the Colbert incident (above), the frontal airbags failed to deploy in this incident as well. The download of the SDM (the vehicle's "black box") showed the key was in the "accessory/off" position at the time of the crash. Old GM received notice of this accident, opened a file, and referred to it as the "Carroll" incident.

164. On March 14, 2006, in Frederick, Maryland, a 2005 Cobalt traveled off the road and struck a utility pole. The frontal airbags did not deploy in this incident. The download of the SDM showed the key was in the "accessory/off" position at the time of the crash. Old GM received notice of this incident, opened a file, and referred to it as the "Oakley" incident.

165. In April 2006, Old GM design engineer Ray DeGiorgio approved a design change for the Chevrolet Cobalt's ignition switch, as proposed by Delphi. The changes included a new detent plunger and spring and were intended to generate greater torque values in the ignition switch. These values, though improved, were still consistently below Old GM's design specifications. Despite its redesign of the ignition switch, Old GM did not change the part number for the switch.

166. In congressional testimony in 2014, New GM CEO Mary Barra acknowledged that Old GM should have changed the part number when it redesigned the ignition switch, and that its failure to do so did not meet industry standard behavior. In October 2006, Old GM updated Technical Service Bulletin 05-02-35-007 to include additional model years: the 2007 Saturn Ion and Sky, 2007 Chevrolet HHR, 2007 Cobalt, and 2007 Pontiac Solstice and G5. These vehicles had the same safety-related defects in the ignition switch systems as the vehicles in the original Bulletin.

167. On December 29, 2006, in Sellenville, Pennsylvania, a 2005 Cobalt drove off the road and hit a tree. The frontal airbags failed to deploy in this incident. Old GM received notice of this incident, opened a file, and referred to it as the "Frei" incident.

168. On February 6, 2007, in Shaker Township, Pennsylvania, a 2006 Cobalt sailed off the road and struck a truck. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. Old GM received notice of this incident, opened a file, and referred to it as the "White" incident.

169. On August 6, 2007, in Cross Lanes, West Virginia, a 2006 Cobalt rear-ended a truck. The frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the "McCormick" incident.

170. On September 25, 2007, in New Orleans, Louisiana, a 2007 Cobalt lost control and struck a guardrail. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the “Gathe” incident.

171. On October 16, 2007, in Lyndhurst, Ohio, a 2005 Cobalt traveled off road and hit a tree. The frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the “Breen” incident.

172. On April 5, 2008, in Sommerville, Tennessee, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the “accessory/off” position. Old GM received notice of this incident, opened a file, and referred to it as the “Freeman” incident.

173. On May 21, 2008, in Argyle, Wisconsin, a 2007 G5 traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the “accessory/off” position. Old GM received notice of this incident, opened a file, and referred to it as the “Wild” incident.

174. On May 28, 2008, in Lufkin, Texas, a 2007 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the “McDonald” incident.

175. On September 13, 2008, in Lincoln Township, Michigan, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the “Harding” incident.

176. On November 29, 2008, in Rolling Hills Estates, California, a 2008 Cobalt traveled off the road and hit a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. Old GM received notice of this incident, opened a file, and referred to it as the “Dunn” incident.

177. On December 6, 2008, in Lake Placid, Florida, a 2007 Cobalt traveled off the road and hit a utility pole. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the “accessory/off” position. Old GM received notice of this incident, opened a file, and referred to it as the “Grondona” incident.

178. In February 2009, Old GM opened another Problem Resolution regarding the ignition switches in the Defective Ignition Switch Vehicles. Old GM engineers decided at this time to change the top of the Chevrolet Cobalt key from a “slot” to a “hole” design, as had originally been suggested in 2005. The new key design was produced for the 2010 model year. Old GM did not provide these redesigned keys to the owners or lessees of any of the vehicles implicated in prior Technical Service Bulletins, including the 2005-2007 Cobalts.

179. Just prior to its bankruptcy sale, Old GM met with Continental Automotive Systems US, its airbag supplier for the Cobalt, Ion, and other Defective Ignition Switch Vehicles. Old GM requested that Continental download SDM data from a 2006 Chevrolet Cobalt accident where the airbags failed to deploy. In a report dated May 11, 2009, Continental analyzed the SDM data and concluded that the SDM ignition state changed from “run” to “off” during the accident. According to Continental, this, in turn, disabled the airbags. Old GM did not disclose this finding to NHTSA, despite its knowledge that NHTSA was interested in airbag non-deployment incidents in Chevrolet Cobalt vehicles.

2. New GM continues to conceal the ignition switch defects.

180. In March 2010, New GM recalled nearly 1.1 million Cobalt and Pontiac G5 vehicles for faulty power steering issues. In recalling these vehicles, New GM recognized that loss of power steering, standing alone, was grounds for a safety recall. Yet, incredibly, New GM claims it did not view the ignition switch defect as a “safety issue,” but only a “customer convenience issue.” Despite its knowledge of the ignition switch defect, New GM did not include the ignition switch defect in this recall. Further, although the Saturn Ion used the same steering system as the Cobalt and Pontiac G5 (and had the same ignition switch defect), New GM did not recall any Saturn Ion vehicles at this time.

181. On March 10, 2010, Brooke Melton was driving her 2005 Cobalt on a two-lane highway in Paulding County, Georgia. While she was driving, her key turned from the “run” to the “accessory/off” position causing her engine to shut off. After her engine shut off, she lost control of her Cobalt, which traveled into an oncoming traffic lane, where it collided with an oncoming car. Brooke was killed in the crash. New GM received notice of this incident.

182. On December 31, 2010, in Rutherford County Tennessee, a 2006 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the “accessory/off” position. New GM received notice of this incident, opened a file, and referred to it as the “Chansuthus” incident.

183. On December 31, 2010, in Harlingen, Texas, a 2006 Cobalt traveled off the road and struck a curb. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. New GM received notice of this incident, opened a file, and referred to it as the “Najera” incident.

184. On March 22, 2011, Ryan Jahr, a New GM engineer, downloaded the SDM from Brooke Melton's Cobalt. The information from the SDM download showed that the key in Brooke's Cobalt turned from the "run" to the "accessory/off" position 3-4 seconds before the crash. On June 24, 2011, Brooke Melton's parents, Ken and Beth Melton, filed a lawsuit against New GM.

185. In August 2011, New GM assigned Engineering Group Manager Brian Stouffer to assist with a Field Performance Evaluation that it had opened to investigate frontal airbag non-deployment incidents in Chevrolet Cobalts and Pontiac G5s.

186. On December 18, 2011, in Parksville, South Carolina, a 2007 Cobalt traveled off the road and struck a tree. Despite there being a frontal impact in this incident, the frontal airbags failed to deploy. The download of the SDM showed the key was in the "accessory/off" position. New GM received notice of this incident, opened a file, and referred to it as the "Sullivan" incident.

187. In early 2012, Mr. Stouffer asked Jim Federico, who reported directly to Mary Barra, to oversee the Field Performance Evaluation investigation into frontal airbag non-deployment incidents. Federico was named the "executive champion" for the investigation to help coordinate resources.

188. In May 2012, New GM engineers tested the torque on numerous ignition switches of 2005-2009 Chevrolet Cobalt, 2009 Pontiac G5, 2006-2009 HHR, and 2003-2007 Saturn Ion vehicles that were parked in a junkyard. The results of these tests showed that the torque required to turn the ignition switches from the "run" to the "accessory" or "off" position in most of these vehicles did not meet GM's minimum torque specification requirements. These results were reported to Mr. Stouffer and other members of the Field Performance Evaluation team.

189. In September 2012, Stouffer requested assistance from a “Red X Team” as part of the Field Performance Evaluation investigation. The Red X Team was a group of engineers within New GM assigned to find the root cause of the airbag non-deployments in frontal accidents involving Chevrolet Cobalts and Pontiac G5s. By that time, however, it was clear that the root cause of the airbag non-deployments in a majority of the frontal accidents was the defective ignition switch and airbag system.

190. Indeed, Mr. Stouffer acknowledged in his request for assistance that the Chevrolet Cobalt could experience a power failure during an off-road event, or if the driver’s knee contacted the key and turned off the ignition. Mr. Stouffer further acknowledged that such a loss of power could cause the airbags not to deploy.

191. At this time, New GM did not provide this information to NHTSA or the public.

192. Acting NHTSA Administrator David Friedman recently stated, “At least by 2012, GM staff was very explicit about an unreasonable risk to safety” from the ignition switches in the Defective Ignition Switch Vehicles.

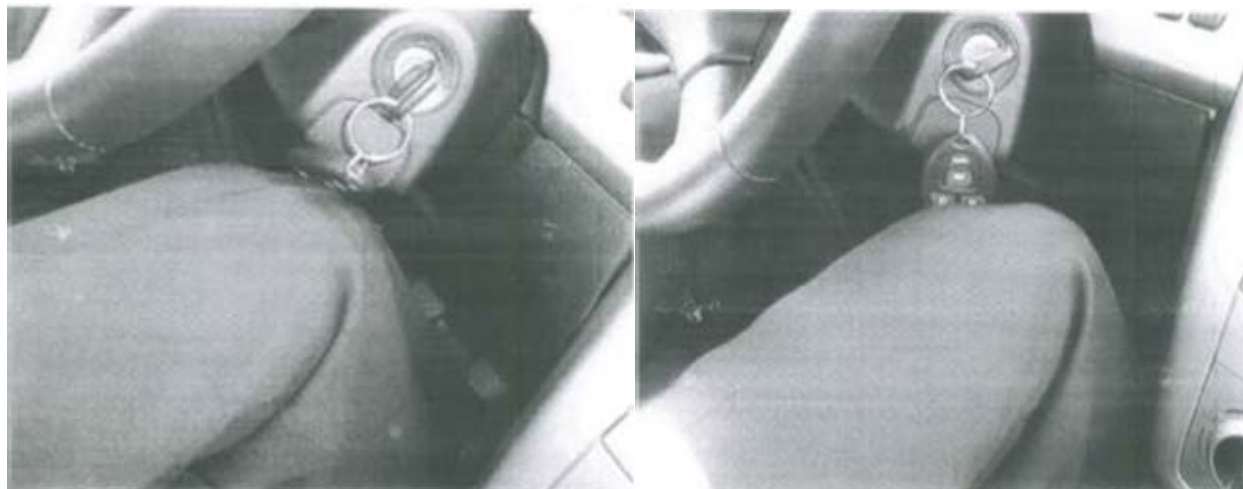
193. Mr. Friedman continued: “GM engineers knew about the defect. GM lawyers knew about the defect. But GM did not act to protect Americans from the defect.”

194. There is significant evidence that multiple in-house attorneys also knew of and understood the ignition switch defect. These attorneys, including Michael Milliken, negotiated settlement agreements with families whose loved ones had been killed and/or injured while operating a Defective Ignition Switch Vehicle. In spite of this knowledge, New GM’s attorneys concealed their knowledge and neglected to question whether the Defective Ignition Switch Vehicles should be recalled. This quest to keep the ignition switch defect secret delayed its public disclosure and contributed to increased death and injury as a result of the ignition switch defect.

195. During the Field Performance Evaluation process, New GM determined that, although increasing the detent in the ignition switch would reduce the chance that the key would inadvertently move from the “run” to the “accessory” or “off” position, it would not be a total solution to the problem.

196. Indeed, the New GM engineers identified several additional ways to actually fix the problem. These ideas included adding a shroud to prevent a driver’s knee from contacting the key, modifying the key and lock cylinder to orient the key in an upward facing orientation when in the run position, and adding a push button to the lock cylinder to prevent it from slipping out of “run.” New GM rejected each of these ideas.

197. The photographs below are of a New GM engineer in the driver’s seat of a Cobalt during the investigation of Cobalt engine stalling incidents:



198. These photographs show the dangerous position of the key in the lock module on the steering column, as well as the key with the slot, which allow the key fob to hang too low off the steering column. New GM engineers understood that the key fob can be impacted and pinched between the driver’s knee and the steering column, and that this will cause the key to inadvertently turn from the “run” to the “accessory” or “off” position. The photographs show

that the New GM engineers understood that increasing the detent in the ignition switch would not be a total solution to the problem. They also show why New GM engineers believed that additional changes (such as the shroud) were necessary to fix the defects with the ignition switch.

199. The New GM engineers clearly understood that increasing the detent in the ignition switch alone was not a solution to the problem. But New GM concealed—and continues to conceal—from the public the full nature and extent of the defects.

200. On October 4, 2012, there was a meeting of the Red X Team during which Mr. Federico gave an update of the Cobalt airbag non-deployment investigation. According to an email from Mr. Stouffer on the same date, the “primary discussion was on what it would take to keep the SDM active if the ignition key was turned to the accessory mode.” Despite this recognition by New GM engineers that the SDM should remain active if the key is turned to the “accessory” or “off” position, New GM took no action to remedy the ignition switch defect or notify customers that the defect existed.

201. During the October 4, 2012 meeting, Mr. Stouffer and other members of the Red X Team also discussed “revising the ignition switch to increase the effort to turn the key from Run to Accessory.”

202. On October 4, 2012, Mr. Stouffer emailed Ray DeGiorgio and asked him to “develop a high level proposal on what it would take to create a new switch for service with higher efforts.” On October 5, 2012, DeGiorgio responded:

Brian,

In order to provide you with a HIGH level proposal, I need to understand what my requirements are. what is the TORQUE that you desire?

Without this information I cannot develop a proposal.

203. On October 5, Stouffer responded to DeGiorgio’s email, stating:

Ray,

As I said in my original statement, I currently don't know what the torque value needs to be. Significant work is required to determine the torque. What is requested is a high level understanding of what it would take to create a new switch.

204. DeGiorgio replied to Stouffer the following morning:

Brian,

Not knowing what my requirements are I will take a SWAG at the Torque required for a new switch. Here is my level proposal

Assumption is 100 N cm Torque.

- New switch design = Engineering Cost Estimate approx. \$300,000
- Lead Time = 18 – 24 months from issuance of GM Purchase Order and supplier selection.

Let me know if you have any additional questions.

205. Stouffer later admitted in a deposition that DeGiorgio's reference to "SWAG" was an acronym for "Silly Wild-Ass Guess."

206. DeGiorgio's cavalier attitude exemplifies New GM's approach to the safety-related defects that existed in the ignition switch and airbag system in the Defective Ignition Switch Vehicles. Rather than seriously addressing the safety-related defects, DeGiorgio's emails show he understood the ignition switches were contributing to the crashes and fatalities and he could not care less.

207. It is also obvious from this email exchange that Stouffer, who was a leader of the Red X Team, had no problem with DeGiorgio's cavalier and condescending response to the request that he evaluate the redesign of the ignition switches.

208. In December 2012, in Pensacola, Florida, Ebram Handy, a New GM engineer, participated in an inspection of components from Brooke Melton's Cobalt, including the ignition

switch. At that inspection, Handy, along with Mark Hood, a mechanical engineer retained by the Meltons, conducted testing on the ignition switch from Brooke Melton's vehicle, as well as a replacement ignition switch for the 2005 Cobalt.

209. At that inspection, Handy observed that the results of the testing showed that the torque performance on the ignition switch from Brooke Melton's Cobalt was well below Old GM's minimum torque performance specifications. Handy also observed that the torque performance on the replacement ignition switch was significantly higher than the torque performance on the ignition switch in Brooke Melton's Cobalt.

210. On April 29, 2013, Ray DeGiorgio, the chief design engineer for the ignition switches in these Defective Ignition Switch Vehicles, was deposed. At his deposition, Mr. DeGiorgio was questioned about his knowledge of differences in the ignition switches in early model-year Cobalts and the switches installed in later model-year Cobalts:

Q. And I'll ask the same question. You were not aware before today that GM had changed the spring – the spring on the ignition switch had been changed from '05 to the replacement switch?

MR. HOLLADAY: Object to the form. Lack of predicate and foundation. You can answer.

THE WITNESS: I was not aware of a detent plunger switch change. We certainly did not approve a detent plunger design change.

Q. Well, suppliers aren't supposed to make changes such as this without GM's approval, correct?

A. That is correct.

Q. And you are saying that no one at GM, as far as you know, was aware of this before today?

MR. HOLLADAY: Object. Lack of predicate and foundation. You can answer.

THE WITNESS: I am not aware about this change.

211. When Mr. DeGiorgio testified, he knew that he personally had authorized the ignition switch design change in 2006, but he stated unequivocally that no such change had occurred.

3. New GM recalls 2.1 million vehicles with defective ignition switches.

212. Under continuing pressure to produce high-ranking employees for deposition in the Melton litigation, New GM's Field Performance Review Committee and Executive Field Action Decision Committee ("Decision Committee") finally decided to order a recall of *some* vehicles with defective ignition switches on January 31, 2014.

213. Initially, the Decision Committee ordered a recall of only the Chevrolet Cobalt and Pontiac G5 for model years 2005-2007.

214. After additional analysis, the Decision Committee expanded the recall on February 24, 2014 to include the Chevrolet HHR and Pontiac Solstice for model years 2006 and 2007, the Saturn Ion for model years 2003-2007, and the Saturn Sky for model year 2007.

215. Public criticism in the wake of these recalls was withering. On March 17, 2014, Mary Barra issued an internal video, which was broadcast to employees. In the video, Ms. Barra admits:

Scrutiny of the recall has expanded beyond the review by the federal regulators at NHTSA, the National Highway Traffic Safety Administration. As of now, two congressional committees have announced that they will examine the issue. And it's been reported that the Department of Justice is looking into this matter. . . . These are serious developments that shouldn't surprise anyone. After all, something went wrong with our process in this instance and terrible things happened.

216. The public backlash continued and intensified. Eventually, GM expanded the ignition switch recall yet again on March 28, 2014. This expansion covered all model years of the Chevrolet Cobalt and HHR, the Pontiac G5 and Solstice, and the Saturn Ion and Sky. The

expanded recall brought the total number of vehicles recalled for defective ignition switches to 2,191,146.

217. Several high-ranking New GM employees were summoned to testify before Congress, including Ms. Barra and executive vice president and in-house counsel Michael Milliken. Further, in an effort to counter the negative backlash, New GM announced that it had hired Anton R. Valukas to conduct an internal investigation into the decade-long concealment of the ignition switch defect.

218. As individuals came forward who had been injured and/or whose loved ones were killed in the Defective Ignition Switch Vehicles, the public criticism continued. Under intense, continuing pressure, New GM agreed in April 2014 to hire Ken Feinberg to design and administer a claims program in order to compensate certain victims who were injured or killed in the Defective Ignition Switch Vehicles. Ms. Barra explained to Congress: “[W]e will make the best decisions for our customers, recognizing that we have legal obligations and responsibilities as well as moral obligations. We are committed to our customers, and we are going to work very hard to do the right thing for our customers.”

219. New GM’s compensation of such individuals, however, was limited to the protocol set forth in the Feinberg Compensation Fund. In the courts, New GM has taken the position that any accident that occurred prior to the Old GM bankruptcy is barred by the bankruptcy Sale Order.

4. New GM recalls over 10 million additional vehicles for ignition switch defects in June and July of 2014.

220. Following the waves of negative publicity surrounding New GM’s recall of the first 2.1 million Defective Ignition Switch Vehicles, New GM was forced to issue a series of additional recalls for more than 10 million additional Defective Ignition Switch Vehicles, as summarized below.

221. While New GM and safety regulators received dozens of complaints of moving stalls and/or power failures in the vehicles covered by New GM's June and July 2014 recalls, New GM did nothing to remedy the situation.

222. NHTSA's website contains more than 100 complaints about vehicle stalls for the 2006-2009 Impalas alone. In one 2012 complaint, an Impala stalled in the middle of a large intersection. The owner took it to a dealer four times but could not get it repaired. The complainant stated, "I'm fearful I will be the one causing a fatal pile-up."

223. New GM admits knowing that ignition switch defects have been linked to at least three deaths and eight injuries in the vehicle model years covered by its June and July recalls. The fatal accidents occurred in 2003 and 2004 Chevrolet Impalas in which the airbags failed to deploy.

5. June 19, 2014 Recall—Camaro Recall.

224. On June 19, 2014, New GM recalled 464,712 model year 2010 through 2014 Chevrolet Camaro vehicles in the United States (NHTSA Recall Number 14V-346).

225. The great majority of the defective Camaros were sold or leased by New GM, though some indeterminate number of the 117,959 model year 2010 Camaros were manufactured by Old GM, and some smaller number were sold by Old GM.

226. According to the recall notice, the driver of an affected Camaro may accidentally hit the ignition key with his or her knee, unintentionally knocking the key out of the "run" position and turning off the engine. If the key is not in the "run" position, the airbags may not deploy during a collision. Additionally, when the key is moved out of the "run" position, the vehicle will experience a loss of engine power, loss of power steering, and loss of power brakes.

227. 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 New GM's formation.

228. For example, on May 3, 2010, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

WHILE DRIVING TO THE DEALERSHIP IN BROOKDALE, MN. ON FREEWAY APPROX 70MPH WHEN CAR COMPLETELY GOES DEAD. QUICKLY I PUT IT IN NEUTRAL AND TURNED IT BACK ON AND COMPLAINED TO DEALER. DRIVING IN ST CLOUD, MN AT INTOWN SPEEDS WHEN THE CAR SHUTS DOWN AGAIN. THEN IT ALSO SHUT DOWN TWICE ON ME IN BRAINERD, MN AT A SPEED OF 50MPH WHILE DRIVING NORMAL. THEN ON 3 MAY 2010 I WAS GOING AROUND A CURVE WITH 2 FRIENDS WHEN IT AGAIN SHUT DOWN AT APPROXIMATELY 60 MPH. THIS TIME WHILE ON THE CURVE I WENT INTO THE DITCH AND HIT A MAIL BOX. THUS CAUSING DAMAGE TO THE RIGHT FRONT OF THE CAR. THE CAR WAS TOWED AND IS PRESENTLY AT THE DEALERSHIP IN BRAINERD, MN. THIS CAR IS TO DANGEROUS TO DRIVE; WILL I HAVE A HEAD[-]ON COLLISION WHILE TRYING TO PASS ANOTHER CAR?

229. On October 20, 2010, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

2010 CHEVROLET CHEVY CAMARO V6, SUDDEN LOSS OF POWER, COMPLETE ELECTRICAL FAILURE, AND ENGINE SHUTDOWN WHILE DRIVING 30 MPH IN SUBDIVISION. PULLED TO SIDE OF ROAD. TURNED CAR "OFF" AND BACK ON. DROVE TO DEALER WHO SAID THEY COULD FIND NO PROBLEM AND NOTHING RECORDED IN CAR'S COMPUTER. GOOGLED RECALL OF V8 TO SHOW DEALER, BUT DEALER SAID THIS WAS UNRELATED.

230. On March 6, 2012, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

WHILE DRIVING VEHICLE FIRST SHUT OFF AT A RED LIGHT FOR NO REASON ON FEB 28 2012 SAME INCIDENT ON MARCH 1ST SHUT OFF A RED LIGHT THIRD TIME IT

WAS WHILE DRIVING 10 MPH MAKING A TURN IN A PARKING SPOT. WAS ABLE TO TURN BACK CAR ON WITH NO PROBLEMS BUT IT IS OF GREAT CONCERN NOW IF THIS SHOULD HAPPEN AT A HIGH SPEED I AM SURE CAR CAN CAUSE INJURIES TO OTHERS AS WELL AS MYSELF.

231. On October 9, 2012, New GM became aware of a complaint filed with NHTSA involving a 2012 Camaro in which the following was reported:

THE CONTACT OWNS A 2012 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING 50 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO RESTART THE VEHICLE. THE MANUFACTURER WAS CONTACTED AND HAD THE VEHICLE TOWED TO A LOCAL DEALER. THE DEALER RESET THE COMPUTER BUT THE REPAIR DID NOT REMEDY THE ISSUE. THE CONTACT TOOK THE VEHICLE BACK TO THE DEALER WHERE THE DEALER RESET THE COMPUTER A SECOND TIME. THE DEALER ALSO DROVE THE VEHICLE FOR ONE HUNDRED MILES AND COULD NOT DUPLICATE THE STALLING ISSUE. THE VEHICLE CONTINUED TO STALL SPORADICALLY. THE FAILURE MILEAGE WAS 4,200.

232. On July 3, 2013, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro in which the following was reported:

THE CONTACT OWNS A 2013 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING APPROXIMATELY 55 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT MENTIONED THAT THE FAILURE WOULD RECUR INTERMITTENTLY. THE VEHICLE WAS TAKEN TO A DEALER FOR A DIAGNOSTIC WHERE THE FAILURE WAS UNABLE TO BE REPLICATED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 1,460 AND THE CURRENT MILEAGE WAS 1,800.

233. On August 4, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

I PURCHASED MY 2010 CHEVY CAMARO 2SS, IN FEBRUARY OF 2012. IT HAD 4,400 MILES ON IT. ABOUT A MONTH OR TWO, AFTER I BOUGHT IT, IT COMPLETELY

SHUT OFF ON ME, ON A MAJOR HIGHWAY, WHILE DOING 65 MPH. I THREW IT INTO NEUTRAL AND TURNED THE KEY AND IT STARTED RIGHT BACK UP. ABOUT A MONTH AFTER THAT, I WAS DOING ABOUT 20MPH ON A BACK ROAD AND IT DID THE SAME EXACT THING. JUST RECENTLY, ABOUT 2 WEEKS AGO, I WAS IN 6TH GEAR, ON CRUISE DOING 60MPH AND I FELT THE CAR "JERK" OR BUCK" A LITTLE BIT. FOLLOWED IMMEDIATELY BY THE CAR DECELERATING. I DOWN-SHIFTED TO 4TH GEAR AND WAS GIVING IT GAS, BUT STILL WOULDN'T SPEED UP. IT FELL DOWN TO ABOUT 40MPH, BEFORE FINALLY CATCHING ITSELF AND SPEEDING BACK UP. ABOUT A MILE LATER, I GOT OFF MY EXIT AND WAS COMING DOWN TO THE STOP SIGN, WHEN ALL THE INDICATOR LIGHTS CAME ON FOR ABOUT 10 SECONDS. THEY WENT OFF AND I MADE A LEFT HAND TURN AND WENT ABOUT A MILE UP THE ROAD. AT THAT POINT, THE CAR COMPLETELY SHUT OFF DOING ABOUT 35MPH. THERE WAS HEAVY TRAFFIC, SO I PULLED OVER AND STARTED IT BACK UP. I CALLED THE CHEVY DEALERSHIP, WHERE I BOUGHT IT FROM, AND THEY HAD NO OPENINGS FOR A WEEK. SO I TOOK IT LAST WEEK TO GET IT CHECKED AND THEY FOUND NOTHING THAT COULD HAVE CAUSED IT, THEY SAY. I AM VERY UPSET, BUT VERY THANKFUL THAT MY TWO CHILDREN WERE NOT WITH ME WHEN IT HAPPENED. I AM CURRENTLY CONTEMPLATING TRADING IT IN, CUZ I AM WORRIED THAT IF IT HAPPENS AGAIN, AND MY CHILDREN ARE IN THE CAR, THAT IT MIGHT SHUT OFF IN VERY CONGESTED BUMPER TO BUMPER TRAFFIC, ON THE HIGHWAY AT NIGHT, AND A TRACTOR TRAILER IS BEHIND ME AND I CAN'T GET IT STARTED OR SOMEONE DOESN'T SEE ME CUZ MY LIGHTS WOULD BE OFF. THE THOUGHT OF THAT COMPLETELY SCARES ME.

234. On September 28, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

THE CONTACT OWNS A 2010 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE DRIVING 5 MPH AND MAKING A TURN, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO RESTART THE VEHICLE BUT THE FAILURE RECURRED. THE VEHICLE WAS TAKEN TO A DEALER WHO PERFORMED A DIAGNOSTIC AND REPLACED A COMPONENT TO CORRECT THE FAILURE. THE CONTACT WAS UNABLE TO DETERMINE THE EXACT COMPONENT HOWEVER,

THE FAILURE RECURRED WITHOUT WARNING. THE VEHICLE WAS TAKEN TO DEALER HOWEVER, NO FAILURE WAS DETERMINED. THE MANUFACTURER WAS MADE AWARE OF THE ISSUE AND AN INCIDENT RECORDER WAS INSTALLED ON THE VEHICLE TO DETERMINE ANY FUTURE FAILURES. THE FAILURE MILEAGE WAS 23,000. THE CURRENT MILEAGE WAS 24,000.

235. On October 2, 2013, New GM became aware of a complaint filed with NHTSA involving a 2010 Camaro in which the following was reported:

I REACHED OUT TO [XXX], GM CEO ON MAY 24, 2013 WITH A STRONG CONCERNS OF POWER FAILURE FOR THE 2ND TIME WHILE DRIVING THE VEHICLE; CAUSING ME NOT TO HAVE CONTROL WHILE THE VEHICLE WAS DRIVEN. THUS IT WAS ALSO NOTED THAT I ORIGINALLY REACHED OUT TO GM TO REQUEST A REPLACED VEHICLE WHILE MY VEHICLE WAS UNDER WARRANTY DUE TO THE VEHICLE LOSING POWER ON A MAJOR FREEWAY; WHICH WAS LIFE THREATENING; HOWEVER THE RESPONSE BACK FROM GM WAS A DECLINED LETTER THAT I RECEIVED ENSURING ME THAT THE VEHICLE WAS SAFE TO DRIVE. I TRAVEL MAJOR FREEWAYS AS PART OF CAREER SO HAVING A RELIABLE VEHICLE IS IMPERATIVE AS FOR I VALUE MY LIFE. [XXX], SENIOR VICE PRESIDENT OF GLOBAL QUALITY & CUSTOMER EXPERIENCE HAS NOT RETURNED MY CALLS AND NOW GM IS ALSO NOT HONORING THE WARRANTY TOO. AFTER ASSISTING ME WITH MY CAR FOR 5 MONTHS .PLEASE NOT MY 2010 CAMARO SS IS PARK AS FOR IT'S NOT SAFE TO DRIVE. GM OFFER ME A CONTRACT TO SIGN THAT WOULD GUARANTEE "NO FAULT TO GM ". I COULDN'T NOT DUE THEM SHOULD MY CAMARO HARM MYSELF OR OTHERS WHILE DRIVING IT. ADDITIONALLY, I WAS TOLD THAT GM KNOWS THERE IS A PROBLEM WITH THE CAMARO BUT CAN'T FIND THE PROBLEM. IT'S HAS BEEN NOTED THAT THE CORRECTIONS THAT I NEED TO HAVE MADE IN ORDER TO BE SAFE IN THE GM VEHICLE CANNOT BE OBTAINED AS FOR MY VEHICLE HAS BEEN KEEP CHEVY FOR SHOP 5 MONTHS.

236. On October 16, 2013, New GM became aware of a complaint filed with NHTSA concerning a 2013 Camaro, in which the following was reported:

THE CONTACT OWNS A 2013 CHEVROLET CAMARO. THE CONTACT STATED THAT WHILE MAKING A U-TURN, THE VEHICLE STALLED WITHOUT WARNING. THE VEHICLE WAS NOT TAKEN TO A DEALER FOR DIAGNOSIS OF THE FAILURE. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE APPROXIMATE FAILURE AND CURRENT MILEAGE WAS 830.

237. On April 20, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

AS I WAS TURNING THE CORNER ON TO WOODWARD AVENUE MY CAR JUST SHUT DOWN. THE CAR WENT TOTALLY BLACK AND SHUT DOWN IN THE MIDDLE OF THE TURN ON THIS VERY BUSY-MAIN THOROUGHFARE.

238. On April 30, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

WITHIN TWO WEEKS AFTER PURCHASING MY CAR IT STALLED TWICE--BOTH WHEN STOPPED AT RED LIGHTS. I TOOK CAR TO DEALERSHIP AND THEY DID A ROAD TEST BUT COULD NOT REPLICATE. ON 4/9/2014 I WAS MAKING A RIGHT HAND TURN AND THE CAR STALLED IN THE MIDDLE OF THE INTERSECTION. I RESTARTED THE CAR, DROVE TO MY OFFICE AND THE CAR STALLED WHEN TURNING INTO THE PARKING GARAGE AND AGAIN WHEN TURNING INTO THE PARKING SPACE. TOOK TO THE DEALERSHIP THE FOLLOWING DAY AND THEY KEPT FOR AN EXTENDED TEST DRIVE BUT COULD NOT REPLICATE THE PROBLEM. SINCE THERE WERE NOT ANY CODES THE CAR WAS RETURNED TO ME.

239. On May 6, 2014, New GM became aware of a complaint filed with NHTSA concerning a 2014 Camaro, in which the following was reported:

DRIVING ON CRUISE CONTROL. KNEE BUMPED KEY, ENGINE TURNED OFF AT 60 MPH. POWER STEERING AND BRAKES STILL WORKED, BUT ENGINE WAS OFF.

240. On May 9, 2014, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro, in which the following was reported:

THE CONTACT INDICATED WHILE TRAVELING 60 MPH ON A MAJOR HIGHWAY, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT WAS ABLE TO MOVE THE VEHICLE OVER TO THE SHOULDER AND AFTER SEVERAL ATTEMPTS THE VEHICLE WAS ABLE TO RESTART. THE VEHICLE WAS TO BE FURTHER INSPECTED, DIAGNOSED AND REPAIRED BY AN AUTHORIZED DEALER BUT IT WAS NOT REPAIRED. THE CONTACT WAS NOTIFIED OF NHTSA CAMPAIGN ID NUMBER: 14V346000 (ELECTRICAL SYSTEM) AFTER EXPERIENCING THE FAILURE MULTIPLE TIMES AND WAS WAITING FOR PARTS TO GET THE VEHICLE REPAIRED. THE MANUFACTURER WAS NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 28,000.

241. On May 19, 2014, New GM became aware of a complaint filed with NHTSA involving a 2013 Camaro, in which the following was reported:

WHILE DRIVING DOWN I 75 IN OCALA FLORIDA CAR STALLED IN MIDDLE OF HIGHWAY . I PULLED OVER TO SHOULDER AND HAD TO RESTART CAR. I TOOK IT IN TO A DEALER AND THEY SAID THEY COULD NOT FIND ANY THING WRONG. THEY SAID TAKE THE CAR.

242. On May 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2012 Camaro, in which the following was reported:

WHEN THE IGNITION SWITCH/ KEY IS SLIGHTLY BUMPED WITH KNEE, THE CAR SHUTS OFF. THREE TIMES NOW. DEALERSHIP NOT RESPONSIVE. TAUGHT MY TEEN DRIVERS WHAT TO DO IF THIS HAPPENS AND THIS SAVED MY DAUGHTER'S LIFE WHEN IT HAPPENED TO HER.

243. Astoundingly, the *sole* remedy provided by New GM in its recall will be to “remove the key blade from the original flip key/RKE transmitter assemblies provided with the vehicle, and provide two new keys and two key rings per key.”

244. The proposed “remedy” is insufficient, because it does not address (i) the poor placement of the ignition switch such that the keys are vulnerable to being “kneaded” by the driver;

(ii) the airbag algorithm that can render the airbags inoperable *even when the vehicles are travelling at a high speed*; and (iii) the possible need for a new switch with higher torque.

245. Indeed, on July 31, 2014, after the recall was announced, New GM became aware of a complaint filed with NHTSA involving a 2014 Camaro, in which the following was reported:

I WAS TURNING ONTO THE HIGHWAY THAT THE SPEED LIMIT IS 65 MPH FROM A SIDE ROAD. I WAITED FOR ONCOMING TRAFFIC TO PASS AND THEN PULLED OUT. AS I PULLED OUT, TURNING RIGHT, MY CAR HAD A SUDDEN LOSS OF POWER. I TRIED TO RESTART AND IT WOULD NOT RESTART. I HAD DIFFICULTY PULLING OVER TO THE SIDE OF THE ROAD DUE TO THE STEERING WHEEL BEING STIFF AND HARD TO HANDLE. AFTER I GOT TO THE SIDE OF THE ROAD, I WAS ABLE TO RESTART MY CAR. ***I DID NOT BUMP THE IGNITION SWITCH WHEN THIS HAPPENED EITHER.*** [Emphasis added.]

a. June 20, 2014 recall—ignition key slot defect.

246. On June 20, 2014, New GM recalled 3,141,731 vehicles in the United States for ignition switch, or ignition key slot, defects (NHTSA Recall Number 14V- 355). New GM announced to NHTSA and the public that the recall concerns an ignition key slot defect.

247. 2,349,095 of the vehicles subject to this recall were made by Old GM. 792,636 vehicles were made and/or sold by New GM.

248. The following vehicles were included in the June 20, 2014 recall: 2005-2009 Buick Lacrosse, 2006-2014 Chevrolet Impala, 2000-2005 Cadillac Deville, 2004-2011 Cadillac DTS, 2006-2011 Buick Lucerne, 2004-2005 Buick Regal LS and RS, and 2006-2008 Chevrolet Monte Carlo.

249. The recall notice states, “In the affected vehicles, the weight on the key ring and/or road conditions or some other jarring event may cause the ignition switch to move out of the run position, turning off the engine.”

250. Further, “[i]f the key 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. Additionally, a key knocked out of the run position could cause loss of engine power, power steering, and power braking, increasing the risk of a vehicle crash.”

251. New GM has received hundreds of complaints at its Technical Assistance Center in which the weight of the key chain was identified as a source of the problem.⁵⁷

252. The vehicles included in this recall were built on the same platform and their defective ignition switches are likely due to weak detent plungers, just like the Cobalt and other Defective Ignition Switch Vehicles recalled in February and March of 2014.

253. New GM was aware of the ignition switch defect in these vehicles from the date of its inception on July 10, 2009, as it acquired on that date all of the knowledge possessed by Old GM given the continuity in personnel, databases, and operations from Old GM to New GM. In addition, New GM acquired additional information thereafter. The information, all of which was known to New GM, included the following facts:

a. On August 30, 2005, Old GM employee Laura Andres sent an email to Jim Zito and copied ten other Old GM employees, including Ray DeGiorgio. Ms. Andres, in her email, stated, “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.” (emphasis in original).

b. Ms. Andres’ email continued: “I think this is a serious safety problem, especially if this switch is on multiple programs. I’m thinking big recall. I was driving 45 mph when I hit the pothole and the car shut off and I had a car driving behind me that swerved around

⁵⁷ See, e.g., GM-MDL-254300011834-35.

me. I don't like to imagine a customer driving with their kids in the back seat, on I-75 and hitting a pothole, in rush-hour traffic. I think you should seriously consider changing this part to a switch with a stronger detent."

c. Ray DeGiorgio, who reportedly designed the ignition switches installed in the 2006 Chevrolet Impala vehicles, replied to Ms. Andres' email, stating that he had recently driven a 2006 Impala and "did not experience this condition."

254. On or after July 10, 2009, senior executives and engineers at New GM knew that some of the information relayed to allay Ms. Andres' concerns was inaccurate. For example, Ray DeGiorgio knew that there had been "issues with detents being too light." Instead of relaying those "issues," Mr. DeGiorgio falsely stated that there were no such "issues."

255. New GM has tried to characterize the recall of these 3.14 million vehicles as being different than the recall for the ignition switch defect in the Cobalts and other Defective Ignition Switch Vehicles when in reality and for all practical purposes it is for exactly the same defect that creates exactly the same safety risks. New GM has attempted to label and describe the ignition key slot defect as being different in order to provide it with cover and an explanation for why it did not recall these 3.14 million vehicles much earlier, and why it is not providing a new ignition switch for the 3.14 million vehicles.

256. From 2001 to the present, Old GM and New GM received numerous reports from consumers regarding complaints, crashes, injuries, and deaths linked to this safety defect. The following are examples of just a few of the many reports and complaints regarding the defect.

257. On January 23, 2001, Old GM became aware of a complaint filed with NHTSA involving a 2000 Cadillac Deville and an incident that occurred on January 23, 2001, in which the following was reported:

COMPLETE ELECTRICAL SYSTEM AND ENGINE SHUTDOWN WHILE DRIVING. HAPPENED THREE DIFFERENT TIMES TO DATE. DEALER IS UNABLE TO DETERMINE CAUSE OF FAILURE. THIS CONDITION DEEMED TO BE EXTREMELY HAZARDOUS BY OWNER. NHTSA ID Number: 739850.

258. On June 12, 2001, Old GM became aware of a complaint filed with NHTSA involving a 2000 Cadillac Deville and an incident that occurred on June 12, 2001, in which the following was reported:

INTERMITTENTLY AT 60MPH VEHICLE WILL STALL OUT AND DIE. MOST TIMES VEHICLE WILL START UP IMMEDIATELY AFTER. DEALER HAS REPLACED MAIN CONSOLE 3 TIMES, AND ABS BRAKES. BUT, PROBLEM HAS NOT BEEN CORRECTED. MANUFACTURER HAS BEEN NOTIFIED.*AK NHTSA ID Number: 890227.

259. On January 27, 2003, Old GM became aware of a complaint filed with NHTSA involving a 2001 Cadillac Deville and an incident that occurred on January 27, 2003, in which the following was reported:

WHILE DRIVING AT HIGHWAY SPEED ENGINE SHUT DOWN, CAUSING AN ACCIDENT. PLEASE PROVIDE ANY ADDITIONAL INFORMATION.*AK NHTSA ID Number: 10004759.

260. The reports regarding the defect continued to be reported to New GM. For example, on February 15, 2010, New GM became aware of a complaint filed with NHTSA involving a 2008 Buick LaCrosse and an incident that occurred on February 13, 2010, in which a driver reported:

WHILE DRIVING AT 55MPH I RAN OVER A ROAD BUMP AND MY 2008 BUICK LACROSSE SUPER SHUT OFF(STALLED). I COASTED TO THE BURM, HIT BRAKES TO A STOP. THE CAR STARTED ON THE FIRST TRY. CONTINUED MY TRIP WITH NO INCIDENCES. TOOK TO DEALER AND NO CODES SHOWED IN THEIR COMPUTER. CALLED GM CUSTOMER ASSISTANCE AND THEY GAVE ME A CASE NUMBER. NO BULLETINS. SCARY TO DRIVE.

TRAFFIC WAS LIGHT THIS TIME BUT MAY NOT BE THE NEXT TIME. *TR. NHTSA ID Number: 10310692.

261. On April 21, 2010, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick Lucerne and an incident that occurred on March 22, 2010, in which the following was reported:

06 BUICK LUCERNE PURCHASED 12-3-09, DIES OUT COMPLETELY WHILE DRIVING AT VARIOUS SPEEDS. THE CAR HAS SHUT OFF ON THE HIGHWAY 3 TIMES WITH A CHILD IN THE CAR. IT HAS OCCURRED A TOTAL OF 7 TIMES BETWEEN 1-08-10 AND 4-17-10. THE CAR IS UNDER FACTORY WARRANTY AND HAS BEEN SERVICED 7 TIMES BY 3 DIFFERENT BUICK DEALERSHIPS. *TR NHTSA ID Number: 10326754.

262. On June 2, 2010, New GM became aware of a complaint filed with NHTSA involving a 2007 Buick LaCrosse and an incident that occurred on March 1, 2010, in which the following was reported:

2007 BUICK LACROSSE SEDAN. CONSUMER STATES MAJOR SAFETY DEFECT. CONSUMER REPORTS WHILE DRIVING THE ENGINE SHUT DOWN 3 TIMES FOR NO APPARENT REASON *TGW NHTSA ID Number: 10334834.

263. On February 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Chevrolet Monte Carlo and an incident that occurred on January 16, 2014, in which the following was reported:

I WAS DRIVING GOING APPROXIMATELY 45 MPH, I HIT A POT HOLE AND MY VEHICLE CUT OFF. THIS HAS HAPPENED THREE TIMES SINCE JANUARY. THE SAME THING HAPPENED THE SECOND TIME. THE LAST TIME IT OCCURRED WAS TUESDAY, FEBRUARY 18. THIS TIME I WAS ON THE EXPRESSWAY TRAVELING APPROXIMATELY 75 MPH, HIT A BUMP AND IT CUT OFF. THE CAR STARTS BACK UP WHEN I PUT IT IN NEUTRAL. *TR NHTSA ID Number: 10565104.

264. On March 3, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Chevrolet Impala and an incident that occurred on February 29, 2012, in which the following was reported:

I WAS DRIVING MY COMPANY ASSIGNED CAR DOWN A STEEP HILL WHEN THE ENGINE STALLED WITHOUT WARNING. THIS HAS HAPPENED 5 OTHER TIMES WITH THIS VEHICLE. THIS WAS THE FIRST TIME I WAS TRAVELING FAST THOUGH. IT'S LIKE THE ENGINE JUST TURNS OFF. THE LIGHTS ARE STILL ON BUT I LOSE THE POWER STEERING AND BRAKES. IT WAS TERRIFYING AND EXTREMELY DANGEROUS. THIS PROBLEM HAPPENS COMPLETELY RANDOMLY WITH NO WARNING. IT HAS HAPPENED TO OTHERS IN MY COMPANY WITH THEIR IMPALAS. I LOOKED ONLINE AND FOUND NUMEROUS OTHER INSTANCES OF CHEVY IMPALAS OF VARIOUS MODEL YEARS DOING THE SAME THING. IT IS CURRENTLY IN THE REPAIR SHOP AND THE MECHANIC CAN'T DUPLICATE THE PROBLEM. I TOLD THEM ITS RANDOM AND OCCURS ABOUT EVERY 4 MONTHS OR SO. I AM AFRAID I WILL HAVE TO GET BACK IN THIS DEATH TRAP DUE TO MY EMPLOYER MAKING ME. PLEASE HELP- I DON'T WANT TO DIE BECAUSE CHEVROLET HAS A PROBLEM WITH THEIR ELECTRICAL SYSTEMS IN THEIR CARS. *TR NHTSA ID Number: 10567458.

265. On March 11, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Cadillac DTS and an incident that occurred on January 27, 2013, in which the following was reported:

ENGINE STOPPED. ALL POWER EQUIPMENT CEASED TO FUNCTION. I WAS ABLE TO GET TO THE SIDE OF THE FREEWAY. PUT THE CAR IN NEUTRAL, TURNED THE KEY AND THE CAR STARTED AND CONTINUED FOR THE DURATION OF THE 200 MILE TRIP. THE SECOND TIME APPROXIMATELY THREE WEEKS AGO MY WIFE WAS DRIVING IN HEAVY CITY TRAFFIC WHEN THE SAME PROBLEM OCCURRED AND SHE LOST THE USE OF ALL POWER EQUIPMENT. SHE WAS ABLE TO PUT THE CAR IN PARK AND GET IT STARTED AGAIN WITHOUT INCIDENT. I CALLED GM COMPLAINT DEPARTMENT. THEY INSTRUCTED ME TO TAKE THE CAR TO A DEALERSHIP AND HAVE A DIAGNOSTIC TEST DONE ON IT. THIS WAS

DONE AND NOTHING WAS FOUND TO BE WRONG WITH THE VEHICLE. I AGAIN CALLED CADILLAC COMPLAINT DEPARTMENT AND OPENED A CASE. THIS TIME I WAS TOLD TO TAKE THE CAR BACK TO THE DEALERSHIP AND ASK THE SERVICE DEPARTMENT TO RECHECK IT. I INFORMED THEM I HAVE THE DIAGNOSTIC REPORT SHOWING NOTHING WRONG WAS FOUND. THEY SUGGESTED I TAKE IT BACK AND HAVE THE SERVICE PEOPLE DRIVE THE CAR. THIS DIDN'T MAKE ANY SENSE BECAUSE I DON'T KNOW WHEN AND WHERE THE PROBLEM WILL OCCUR AGAIN. WHAT WAS I TO DO FOR A CAR WHILE THE DEALERSHIP HAD MINE? I INQUIRED OF THE CADILLAC REPRESENTATIVE IF THIS CAR MAY HAVE THE SAME IGNITION AS THE CARS CURRENTLY BEING RECALLED BY GM. THEY WERE UNABLE TO ANSWER THAT QUESTION. THEY FINALLY STATED THE ONLY REMEDY WAS TO TAKE IT BACK TO THE DEALERSHIP. IF THIS PROBLEM OCCURS AGAIN SOMEONE COULD EASILY GET INJURED OR KILLED. I WOULD APPRECIATE ANY ASSISTANCE YOU CAN GIVE ME ON HOW TO RESOLVE THIS MATTER. NHTSA ID Number: 10568491.

266. On March 19, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick LaCrosse and an incident that occurred on March 15, 2014, in which the following was reported:

WHILE DRIVING UP A LONG INCLINE ON I-10 VEHICLE BEHAVED AS IF THE IGNITION HAD BEEN TURNED OFF AND KEY REMOVED. IE: ENGINE OFF, NO LIGHTS OR ACCESSORIES, NO WARNING LIGHTS ON DASH. TRAFFIC WAS HEAVY AND MY WIFE WAS FORTUNATE TO SAFELY COAST INTO SHOULDER. INCIDENT RECORDED WITH BUICK, HAVE REFERENCE NUMBER. *TR NHTSA ID Number: 10573586.

267. On July 12, 2014, New GM became aware of a complaint filed with NHTSA involving a 2009 Chevrolet Impala and an incident that occurred on March 19, 2010, in which the following was reported:

I HAD JUST TURNED ONTO THIS ROAD, HAD NOT EVEN GONE A MILE. NO SPEED, NO BLACK MARKS, CAR SHUT DOWN RAN OFF THE ROAD AND HIT A TREE STUMP. TOTAL THE CAR. THE STEERING WHEEL WAS BENT

ALMOST IN HALF. I HAVE PICTURES OF THE CAR. I GOT THIS CAR NEW, SO ALL MILES WE'RE PUT ON IT BY ME. I BROKE MY HIP, BACK, KNEE, DISLOCATED MY ELBOW, CRUSHED MY ANKLE AND FOOT. HAD A HEAD INJURY, A DEFLATED LUNG. I WAS IN THE HOSPITAL FOR TWO MONTHS AND A NURSING HOME FOR A MONTH. I HAVE HAD 14 SURGERIES. STILL NOT ABLE TO WORK OR DO A LOT OF THINGS FOR MY SELF. WITH THE RECALLS SHOWING THE ISSUES OF THE ENGINE SHUTTING OFF, I NEED THIS LOOKED INTO. NHTSA ID Number: 10610093.

268. Since New GM's recall announcement, the reports and complaints relating to this defect have continued to pour into New GM268.

269. For example, on August 2, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Buick LaCrosse and an incident that occurred on July 12, 2014, in which the following was reported:

WHILE TRAVELING IN THE FAST LANE ON THE GARDEN STATE PARKWAY I HIT A BUMP IN THE ROAD, THE AUTO SHUT OFF.WITH A CONCRETE DIVIDER ALONG SIDE AND AUTOS APPROACHING AT HIGH SPEED, MY WIFE AND DAUGHTER SCREAMING I MANAGED TO GET TO THE END OF THE DIVIDER WERE I COULD TURN OFF THE AUTO RESTARTED ON 1ST TRY BUT VERY SCARY. NHTSA ID Number: 10618391.

270. On August 18, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Buick LaCrosse and an incident that occurred on August 18, 2014, in which the following was reported:

TL* THE CONTACT OWNS A 2007 BUICK LACROSSE. THE CONTACT STATED WHILE DRIVING APPROXIMATELY 60 MPH, SHE HIT A POT HOLE AND THE VEHICLE STALLED. THE VEHICLE COASTED TO THE SHOULDER OF THE ROAD. THE VEHICLE WAS RESTARTED AND THE CONTACT WAS ABLE TO DRIVE THE VEHICLE AS NORMAL. THE CONTACT RECEIVED A RECALL NOTICE UNDER NHTSA CAMPAIGN NUMBER: 14V355000 (ELECTRICAL SYSTEM), HOWEVER THE PARTS NEEDED FOR THE REPAIRS WAS UNAVAILABLE. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE APPROXIMATE

FAILURE MILEAGE WAS 110,000. NHTSA ID Number:
10626067.

271. On August 20, 2014, New GM became aware of a complaint filed with NHTSA involving a 2007 Chevrolet Impala and an incident that occurred on August 6, 2014, in which it was reported that:

TL* THE CONTACT OWNS A 2007 CHEVROLET IMPALA. THE CONTACT STATED THAT WHILE DRIVING 25 MPH, THE VEHICLE STALLED WITHOUT WARNING. THE CONTACT RECEIVED A NOTIFICATION FOR RECALL NHTSA CAMPAIGN NUMBER: 14V355000 (ELECTRICAL SYSTEM). THE VEHICLE WAS TAKEN TO AN INDEPENDENT MECHANIC WHERE THE TECHNICIAN ADVISED THE CONTACT TO REMOVE THE KEY FOB AND ANY OTHER OBJECTS. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE FAILURE MILEAGE WAS 79,000. NHTSA ID Number: 10626659.

272. On August 27, 2014, New GM became aware of the following complaint filed with NHTSA involving a 2008 Chevrolet Impala and an incident that occurred on August 27, 2014, in which it was reported that:

TL-THE CONTACT OWNS A 2008 CHEVROLET IMPALA. THE CONTACT STATED WHILE DRIVING APPROXIMATELY 50 MPH, THE VEHICLE LOST POWER AND THE STEERING WHEEL SEIZED WITHOUT WARNING. AS A RESULT, THE CONTACT CRASHED INTO A POLE AND THE AIR BAGS FAILED TO DEPLOY. THE CONTACT SUSTAINED A CONCUSSION, SPRAINED NECK, AND WHIPLASH WHICH REQUIRED MEDICAL ATTENTION. THE POLICE WAS NOT FILED. THE VEHICLE WAS TOWED TO A TOWING COMPANY. THE CONTACT RECEIVED NOTIFICATION OF NHTSA CAMPAIGN ID NUMBER: 14V355000 (ELECTRICAL SYSTEM), HOWEVER THE PARTS ARE NOT AVAILABLE TO PERFORM THE REPAIRS. THE VEHICLE WAS NOT REPAIRED. THE MANUFACTURER WAS NOT NOTIFIED OF THE FAILURE. THE APPROXIMATE FAILURE MILEAGE WAS 70,000. MF. NHTSA ID Number: 10628704.

273. New GM knew that this serious safety defect existed for years yet did nothing to warn the public or even attempt to correct the defect in these vehicles until late June of 2014 when New GM finally made the decision to implement a recall.

274. The “fix” that New GM plans as part of the recall is to modify the ignition key from a “slotted” key to “hole” key. This is insufficient and does not adequately address the safety risks posed by the defect. The ignition key and switch remain prone to inadvertently move from the “run” to the “accessory” position.

275. Simply changing the key slot or taking other keys and fobs off of key rings is New GM’s attempt to make consumers responsible for the safety of GM-branded vehicles and to divert its own responsibility to make GM-branded vehicles safe. New GM’s “fix” does not adequately address the inherent dangers and safety threats posed by the defect in the design.

276. In addition, New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the airbags from deploying when the ignition leaves the “run” position even when the vehicle is moving at high speed. And New GM is not altering the placement of the ignition switch in an area where the driver’s knees may inadvertently cause the ignition to move out of the “run” position.

6. July 2 and 3, 2014 recalls—unintended ignition rotation defect.

277. On July 2, 2014, New GM recalled 554,328 vehicles in the United States for ignition switch defects (Recall Number 14V-394). The July 2 recall applied to the 2003-2014 Cadillac CTS and the 2004-2006 Cadillac SRX.

278. The recall notice explains that the weight on the key ring and/or road conditions or some other jarring event may cause the ignition switch to move out of the “run” position,

turning off the engine. Further, if the key is not in the “run” position, the airbags may not deploy in the event of a collision, increasing the risk of injury.

279. On July 3, 2014, New GM recalled 6,729,742 additional vehicles in the United States for ignition switch defects (Recall No. 14V-400).

280. The following vehicles were included in this recall: 1997-2005 Chevrolet Malibu, 2000-2005 Chevrolet Impala, 2000-2005 Chevrolet Monte Carlo, 2000-2005 Pontiac Grand Am, 2004-2008 Pontiac Grand Prix, 1998-2002 Oldsmobile Intrigue, and 1999-2004 Oldsmobile Alero.

281. The recall notice states that the weight on the key and/or road conditions or some other jarring event may cause the ignition switch to move out of the “run” position, turning off the engine. If the key is not in the “run” position, the airbags may not deploy if the vehicle is involved in a collision, increasing the risk of injury.

282. In both of these recalls, New GM notified NHTSA and the public that the recall was intended to address a defect involving unintended or “inadvertent key rotation” within the ignition switch of the vehicles. Old GM manufactured 7,175,896 of the recalled vehicles. New GM manufactured and sold 108,174 of the vehicles.

283. Once again, the unintended ignition rotation defect is substantially similar to and relates directly to the other ignition switch defects, including the defects that gave rise to the initial recall of 2.1 million Cobalts and other vehicles in February and March of 2014. Like the other ignition switch defects, the unintended ignition key rotation defect poses a serious and dangerous safety risk because it can cause a vehicle to stall while in motion by causing the key in the ignition to inadvertently move from the “on” or “run” position to “off” or “accessory” position. Like the other ignition switch defects, the unintended ignition key rotation defect can result in a loss of power steering, power braking, and increase the risk of a crash. And as with

the other ignition switch defects, if a crash occurs, the airbags will not deploy because of the unintended ignition key rotation defect.

284. The unintended ignition key rotation defect involves several problems, and they are identical to the problems in the other Defective Ignition Switch Vehicles: a weak detent plunger, the low positioning of the ignition on the steering column, and the algorithm that renders the airbags inoperable when the vehicle leaves the “run” position.

285. The 2003-2006 Cadillac CTS and the 2004-2006 Cadillac SRX use the same Delphi switch and have inadequate torque for the “run”-“accessory” direction of the key rotation. This was known to Old and New GM, and was the basis for a change that was made to a stronger detent plunger for the 2007 and later model years of the SRX model. The 2007 and later CTS vehicles used a switch manufactured by Dalian Alps.

286. In 2010, New GM changed the CTS key from a “slot” to a “hole” design to “reduce an observed nuisance” of the key fob contacting the driver’s leg. But in 2012, a New GM employee reported two running stalls of a 2012 CTS that had a “hole” key and the stronger detent plunger switch. When New GM did testing in 2014 of the “slot” versus “hole” keys, it confirmed that the weaker detent plunger-equipped switches used in the older CTS and SRX could inadvertently move from “run” to “accessory” or “off” when the “vehicle goes off road or experience some other jarring event.”

287. New GM has tried to characterize the recall of these 7.3 million vehicles as being different than the ignition switch defects in the Cobalt and other vehicles that gave rise to the February and March 2014 recalls *even though* these recalls are aimed at addressing the same defects and safety risks as those that gave rise to the other ignition switch defect recalls. New GM has attempted to portray the unintended ignition key rotation defect as being different from the other ignition switch defects in order to deflect attention from the severity and

pervasiveness of the ignition switch defect and to try to provide a story and plausible explanation for why it did not recall these 7.3 million vehicles much earlier, and to avoid providing new, stronger ignition switches as a remedy.

288. Further, New GM acquired knowledge of the defects in these vehicles on the date of its inception on July 11, 2009. On that date, it acquired knowledge of the following facts:

a. In January of 2003, Old GM opened an internal investigation after it received complaints from a Michigan GM dealership that a customer had experienced a moving stall and power failure while operating his model year 2003 Pontiac Grand Am.

b. During the investigation, Old GM's Brand Quality Manager for the Grand Am visited the dealership and requested that the affected customer demonstrate the problem. The customer was able to recreate the shutdown event by driving over a speed bump at approximately 30-35 mph.

c. The customer's key ring was allegedly quite heavy. It contained approximately 50 keys and a set of brass knuckles.

d. In May 2003, Old GM issued a voicemail to dealerships describing the defective ignition switch condition experienced by the customer in the Grand Am. Old GM identified the vehicles affected by this condition as the 1999-2003 Chevrolet Malibu, Oldsmobile Alero, and Pontiac Grand Am.

e. Old GM did not recall these vehicles. Nor did it provide owners and/or lessees with notice of the defective condition. Instead, its voicemail directed dealerships to pay attention to the key size and mass of the customer's key ring.

f. On July 24, 2003, Old GM issued an engineering work order to increase the detent plunger force on the ignition switch for the 1999-2003 Chevrolet Malibu, Oldsmobile Alero, and Pontiac Grand Am vehicles. Old GM engineers allegedly increased the detent

plunger force and changed the part number of the ignition switch. The new parts were installed beginning in the model year 2004 Malibu, Alero, and Grand Am vehicles.

g. Old GM issued a separate engineering work order in March 2004 to increase the detent plunger force on the ignition switch in the Pontiac Grand Prix. Old GM engineers did not change the part number for the new Pontiac Grand Prix ignition switch.

h. Then-Old GM design engineer Ray DeGiorgio signed the work order in March 2004 authorizing the part change for the Grand Prix ignition switch. Ray DeGiorgio maintained his position as design engineer with New GM.

i. On or around August 25, 2005, Laura Andres, an Old GM design engineer (who remains employed with New GM), sent an email describing ignition switch issues that she experienced while operating a 2006 Chevrolet Impala on the highway. Ms. Andres' email stated, "While driving home from work on my usual route, I was driving about 45 mph, where the road changes from paved to gravel & then back to paved, some of the gravel had worn away, and the pavement acted as a speed bump when I went over it. The car shut off. I took the car in for repairs. The technician thinks it might be the ignition detent, because in a road test in the parking lot it also shut off."

j. Old GM employee Larry S. Dickinson, Jr. forwarded Ms. Andres' email on August 25, 2005 to four Old GM employees. Mr. Dickinson asked, "Is this a condition we would expect to occur under some impacts?"

k. On August 29, 2005, Old GM employee Jim Zito forwarded the messages to Ray DeGiorgio and asked, "Do we have any history with the ignition switch as far as it being sensitive to road bumps?"

l. Mr. DeGiorgio responded the same day, stating, "To date there has never been any issues with the detents being too light."

289. From 2002 to the present, Old GM and New GM received numerous reports from consumers regarding complaints, crashes, injuries, and deaths linked to this safety defect. The following are just a handful of examples of some of the reports known to Old GM and New GM.

290. On November 22, 2002, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS involving an incident that occurred on July 1, 2002, in which it was reported that:

THE CAR STALLS AT 25 MPH TO 45 MPH, OVER 20 OCCURANCES, DEALER ATTEMPTED 3 REPAIRS. DT NHTSA ID Number: 770030.

291. On January 21, 2003, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS, in which the following was reported:

WHILE DRIVING AT ANY SPEED, THE VEHICLE WILL SUDDENLY SHUT OFF. THE STEERING WHEEL AND THE BRAKE PEDAL BECOMES VERY STIFF. CONSUMER FEELS ITS VERY UNSAFE TO DRIVE. PLEASE PROVIDE ANY FURTHER INFORMATION. NHTSA ID Number: 10004288.

292. On June 30, 2003, Old GM became aware of a complaint filed with NHTSA regarding a 2001 Oldsmobile Intrigue which involved the following report:

CONSUMER NOTICED THAT WHILE TRAVELING DOWN HILL AT 40-45 MPH BRAKES FAILED, CAUSING CONSUMER TO RUN INTO THREES AND A POLE. UPON IMPACT, AIR BAGS DID NOT DEPLOY. *AK NHTSA ID Number: 10026252.

293. On March 11, 2004, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac CTS involving an incident that occurred on March 11, 2004, in which the following was reported:

CONSUMER STATED WHILE DRIVING AT 55-MPH VEHICLE STALLED, CAUSING CONSUMER TO PULL OFF THE ROAD. DEALER INSPECTED VEHICLE SEVERAL TIMES, BUT COULD NOT DUPLICATE OR CORRECT THE PROBLEM. *AK NHTSA ID Number: 10062993.

294. On March 11, 2004, Old GM became aware of a complaint with NHTSA regarding a 2003 Oldsmobile Alero incident that occurred on July 26, 2003, in which the following was reported:

THE VEHICLE DIES. WHILE CRUISING AT ANY SPEED, THE HYDRAULIC BRAKES & STEERING FAILED DUE TO THE ENGINE DYING. THERE IS NO SET PATTERN, IT MIGHT STALL 6 TIMES IN ONE DAY, THEN TWICE THE NEXT DAY. THEN GO 4 DAYS WITH NO OCURRENCE, THEN IT WILL STALL ONCE A DAY FOR 3 DAYS. THEN GO A WEEK WITH NO OCURRENCE, THEN STALL 4 TIMES A DAY FOR 5 DAYS, ETC., ETC. IN EVERY OCURRENCE, IT TAKES APPROXIMATELY 10 MINUTES BEFORE IT WILL START BACK UP. AT HIGH SPEEDS, IT IS EXTREMELY TOO DANGEROUS TO DRIVE. WE'VE TAKEN IT TO THE DEALER, UNDER EXTENDED WARRANTY, THE REQUIRED 4 TIMES UNDER THE LEMON LAW PROCESS. THE DEALER CANNOT ASCERTAIN, NOR FIX THE PROBLEM. IT HAPPENED TO THE DEALER AT LEAST ONCE WHEN WE TOOK IT IN. I DOUBT THEY WILL ADMIT IT, HOWEVER, MY WIFE WAS WITNESS. THE CAR IS A 2003. EVEN THOUGH I BOUGHT IT IN JULY 2003, IT WAS CONSIDERED A USED CAR. GM HAS DENIED OUR CLAIM SINCE THE LEMON LAW DOES NOT APPLY TO USED CARS. THE CAR HAS BEEN PERMANENTLY PARKED SINCE NOVEMBER 2003. WE WERE FORCED TO BUY ANOTHER CAR. THE DEALER WOULD NOT TRADE. THIS HAS RESULTED IN A BADLUCK SITUATION FOR US. WE CANNOT AFFORD 2 CAR PAYMENTS / 2 INSURANCE PREMIUMS, NOR CAN WE AFFORD \$300.00 PER HOUR TO SUE GM. I STOPPED MAKING PAYMENTS IN DECEMBER 2003. I HAVE KEPT THE FINANCE COMPANY ABREAST OF THE SITUATION. THEY HAVE NOT REPOSSED AS OF YET. THEY WANT ME TO TRY TO SELL IT. CAN YOU HELP
?*AK NHTSA ID Number: 10061898.

295. On July 20, 2004, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, involving an incident that occurred on July 9, 2004, in which the following was reported:

THE CAR DIES AFTER TRAVELING ON HIGHWAY. IT GOES FROM 65 MPH TO 0. THE BRAKES, STEERING, AND COMPLETE POWER DIES. YOU HAVE NO CONTROL OVER THE CAR AT THIS POINT. I HAVE ALMOST BEEN HIT 5

TIMES NOW. ALSO, WHEN THE CARS DOES TURN BACK ON IT WILL ONLY GO 10 MPH AND SOMETIMES WHEN YOU TURN IT BACK ON THE RPM'S WILL GO TO THE MAX. IT SOUNDS LIKE THE CAR IS GOING TO EXPLODE. THIS CAR IS A DEATH TRAP. *LA NHTSA ID Number: 10082289.

296. In August 2004, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Chevrolet Malibu incident that occurred on June 30, 2004, in which it was reported that:

WHILE TRAVELING AT ANY SPEED VEHICLE STALLED. WITHOUT CONSUMER HAD SEVERAL CLOSE CALLS OF BEING REAR ENDED. VEHICLE WAS SERVICED SEVERAL TIMES, BUT PROBLEM RECURRED. *AK. NHTSA ID Number: 10089418.

297. Another report in August of 2004 which Old GM became aware of involved a 2004 Chevrolet Malibu incident that occurred on August 3, 2004, in which it was reported that:

WHEN DRIVING, THE VEHICLE TO CUT OFF. THE DEALER COULD NOT FIND ANY DEFECTS. *JB. NHTSA ID Number: 10087966.

298. On October 23, 2004, Old GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Monte Carlo, in which the following was reported:

VEHICLE CONTINUOUSLY EXPERIENCED AN ELECTRICAL SYSTEM FAILURE. AS A RESULT, THERE WAS AN ELECTRICAL SHUT DOWN WHICH RESULTED IN THE ENGINE DYING/ STEERING WHEEL LOCKING UP, AND LOSS OF BRAKE POWER.*AK NHTSA ID Number: 10044624.

299. On April 26, 2005, Old GM became aware of a complaint filed with NHTSA involving a 2005 Pontiac Grand Prix, pertaining to an incident that occurred on December 29, 2004, in which the following was reported:

2005 PONTIAC GRAND PRIX GT SEDAN VIN #[XXX]
PURCHASED 12/16/2004. INTERMITTENTLY VEHICLE STALLS/ LOSS OF POWER IN THE ENGINE. WHILE DRIVING THE VEHICLE IT WILL SUDDENLY JUST LOSES

POWER. YOU CONTINUE TO PRESS THE ACCELERATOR PEDAL AND THEN THE ENGINE WILL SUDDENLY TAKE BACK OFF AT A GREAT SPEED. THIS HAS HAPPENED WHILE DRIVING NORMALLY WITHOUT TRYING TO ACCELERATE AND ALSO WHILE TRYING TO ACCELERATE. THE CAR HAS LOST POWER WHILE TRYING TO MERGE IN TRAFFIC. THE CAR HAS LOST POWER WHILE TRYING TO CROSS HIGHWAYS. THE CAR HAS LOST POWER WHILE JUST DRIVING DOWN THE ROAD. GMC HAS PERFORMED THE FOLLOWING REPAIRS WITHOUT FIXING THE PROBLEM. 12/30/2004 [XXX]-MODULE, POWERTRAIN CONTROL-ENGINE REPROGRAMMING. 01/24/2005 [XXX]-SOLENOID, PRESSURE CONTROL-REPLACED. 02/04/2005 [XXX]-MODULE, PCM/VCM-REPLACED. 02/14/2005 [XXX]-PEDAL, ACCELERATOR-REPLACED. DEALERSHIP PURCHASED FROM CAPITAL BUICK-PONTIAC-GMC 225-293-3500. DEALERSHIP HAS ADVISED THAT THEY DO NOT KNOW WHAT IS WRONG WITH THE CAR. WE HAVE BEEN TOLD THAT WE HAVE TO GO DIRECT TO PONTIAC WITH THE PROBLEM. HAVE BEEN IN CONTACT WITH PONTIAC SINCE 02/15/05. PONTIAC ADVISED THAT THEY WERE GOING TO RESEARCH THE PROBLEM AND SEE IF ANY OTHER GRAND PRI WAS REPORTING LIKE PROBLEMS. SO FAR THE ONLY ADVICE FROM PONTIAC IS THEY WANT US TO COME IN AND TAKE ANOTHER GRAND PRIX OFF THE LOT AND SEE IF WE CAN GET THIS CAR TO DUPLICATE THE SAME PROBLEM. THIS DID NOT IMPRESS ME AT ALL. SO AFTER WAITING FOR 2-1/2 MONTHS FOR PONTIAC TO DO SOMETHING TO FIX THE PROBLEM, I HAVE DECIDED TO REPORT THIS TO NHTSA. *AK *JS INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6) NHTSA ID Number: 10118501.

300. In May 2005, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Chevrolet Malibu incident that occurred on July 18, 2004, in which it was reported that:

THE CAR CUT OFF WHILE I WAS DRIVING AND IN HEAVY TRAFFIC MORE THAN ONCE. THERE WAS NO WARNING THAT THIS WOULD HAPPEN. THE CAR WAS SERVICED BEFORE FOR THIS PROBLEM BUT IT CONTINUED TO HAPPEN. I HAVE HAD 3 RECALLS, THE HORN FUSE HAS BEEN REPLACED TWICE, AND THE BLINKER IS CURRENTLY OUT. THE STEERING COLLAR HAS ALSO BEEN REPLACED. THIS CAR WAS SUPPOSED TO BE A NEW CAR. NHTSA ID Number: 10123684.

301. On June 2, 2005, Old GM became aware of a complaint with NHTSA regarding a 2004 Pontiac Grand Am incident that occurred on February 18, 2005, in which the following was reported:

2004 PONTIAC GRAND PRIX SHUTS DOWN WHILE DRIVING AND THE POWER STEERING AND BRAKING ABILITY ARE LOST.*MR *NM. NHTSA ID Number: 10124713.

302. On August 12, 2005, Old GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS, regarding an incident that occurred on January 3, 2005, in which it was reported that:

DT: VEHICLE LOST POWER WHEN THE CONSUMER HIT THE BRAKES. THE TRANSMISSION JOLTS AND THEN THE ENGINE SHUTS OFF. IT HAS BEEN TO THE DEALER 6 TIMES SINCE JANUARY. THE DEALER TRIED SOMETHING DIFFERENT EVERY TIME SHE TOOK IT IN. MANUFACTURER SAID SHE COULD HAVE A NEW VEHICLE IF SHE PAID FOR IT. SHE WANTED TO GET RID OF THE VEHICLE.*AK THE CHECK ENGINE LIGHT ILLUMINATED. *JB NHTSA ID Number: 10127580.

303. On August 26, 2005, Old GM became aware of a complaint with NHTSA regarding a 2004 Pontiac Grand Am incident that occurred on August 26, 2005, in which the following was reported:

WHILE DRIVING MY 2004 PONTIAC GRAND AM THE CAR FAILED AT 30 MPH. IT COMPLETELY SHUT OFF LEAVING ME WITH NO POWER STEERING AND NO WAY TO REGAIN CONTROL OF THE CAR UNTIL COMING TO A COMPLETE STOP TO RESTART IT. ONCE I HAD STOPPED IT DID RESTART WITHOUT INCIDENT. ONE WEEK LATER THE CAR FAILED TO START AT ALL NOT EVEN TURNING OVER. WHEN THE PROBLEM WAS DIAGNOSED AT THE GARAGE IT WAS FOUND TO BE A FAULTY "IGNITION CONTROL MODULE" IN THE CAR. AT THIS TIME THE PART WAS REPLACED ONLY TO FAIL AGAIN WITHIN 2 MONTHS TIME AGAIN WHILE I WAS DRIVING THIS TIME IN A MUCH MORE HAZARDOUS CONDITION BEING THAT I WAS ON THE HIGHWAY AND WAS TRAVELING AT 50 MPH AND HAD TO TRAVEL ACROSS TWO LANES OF

TRAFFIC TO EVEN PULL OVER TO TRY TO RESTART IT. THE CAR CONTINUED TO START AND SHUT OFF ALL THE WAY TO THE SERVICE GARAGE WHERE IT WAS AGAIN FOUND TO BE A FAULTY "IGNITION CONTROL MODULE". IN ANOTHER TWO WEEKS TIME THE CAR FAILED TO START AND WHEN DIAGNOSED THIS TIME IT WAS SAID TO HAVE "ELECTRICAL PROBLEMS" POSSIBLE THE "POWER CONTROL MODULE". AT THIS TIME THE CAR IS STILL UNDRIVEABLE AND UNSAFE FOR TRAVEL. *JB NHTSA ID Number: 10134303.

304. On April 18, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, regarding an incident that occurred on April 13, 2007, in which it was reported that:

TL*THE CONTACT OWNS A 2004 CADILLAC SRX. THE ENGINE STALLED WITHOUT WARNING AND CAUSED ANOTHER VEHICLE TO CRASH INTO THE VEHICLE. THE VEHICLE WAS ABLE TO RESTART A FEW MINUTES AFTER THE CRASH. THE DEALER AND MANUFACTURER WAS UNABLE TO DIAGNOSE THE FAILURE. THE MANUFACTURER HAD THE VEHICLE INSPECTED BY A CADILLAC SPECIALIST WHO WAS UNABLE TO DIAGNOSE THE FAILURE. THE DEALER UPDATED THE COMPUTER FOUR TIMES, BUT THE ENGINE CONTINUED TO STALL. THE CURRENT AND FAILURE MILEAGES WERE 48,000. NHTSA ID Number: 10188245.

305. On September 20, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2007 Cadillac CTS, in connection with an incident that occurred on January 1, 2007, in which it was reported that:

TL*THE CONTACT OWNS A 2007 CADILLAC CTS. WHILE DRIVING 40 MPH, THE VEHICLE SHUT OFF WITHOUT WARNING. THE FAILURE OCCURRED ON FIVE SEPARATE OCCASIONS. THE DEALER WAS UNABLE TO DUPLICATE THE FAILURE. AS OF SEPTEMBER 20, 2007, THE DEALER HAD NOT REPAIRED THE VEHICLE. THE POWERTRAIN WAS UNKNOWN. THE FAILURE MILEAGE WAS 2,000 AND CURRENT MILEAGE WAS 11,998. NHTSA ID Number: 10203516.

306. On September 24, 2007, Old GM became aware of a complaint filed with NHTSA involving a 2004 Cadillac SRX, regarding an incident that occurred on January 1, 2005, in which the following was reported:

TL*THE CONTACT OWNS A 2004 CADILLAC SRX. WHILE DRIVING 5 MPH OR GREATER, THE VEHICLE WOULD SHUT OFF WITHOUT WARNING. THE DEALER STATED THAT THE BATTERY CAUSED THE FAILURE AND THEY REPLACED THE BATTERY. APPROXIMATELY EIGHT MONTHS LATER, THE FAILURE RECURRED. THE DEALER STATED THAT THE BATTERY CAUSED THE FAILURE AND REPLACED IT A SECOND TIME. APPROXIMATELY THREE MONTHS LATER, THE FAILURE OCCURRED AGAIN. SHE WAS ABLE TO RESTART THE VEHICLE. THE DEALER WAS UNABLE TO DUPLICATE THE FAILURE, HOWEVER, THEY REPLACED THE CRANK SHAFT SENSOR. THE FAILURE CONTINUES TO PERSIST. AS OF SEPTEMBER 24, 2007, THE DEALER HAD NOT REPAIRED THE VEHICLE. THE POWERTRAIN WAS UNKNOWN. THE FAILURE MILEAGE WAS 8,000 AND CURRENT MILEAGE WAS 70,580. NHTSA ID Number: 10203943.

307. On June 18, 2008, Old GM became aware of a complaint filed with NHTSA involving a 2006 Cadillac CTS and an incident that occurred on June 17, 2008, in which it was reported that:

TL*THE CONTACT OWNS A 2006 CADILLAC CTS. WHILE DRIVING 60 MPH AT NIGHT, THE VEHICLE SHUT OFF AND LOST TOTAL POWER. WHEN THE FAILURE OCCURRED, THE VEHICLE CONTINUED TO ROLL AS IF IT WERE IN NEUTRAL. THERE WERE NO WARNING INDICATORS PRIOR TO THE FAILURE. THE CONTACT FEELS THAT THIS IS A SAFETY HAZARD BECAUSE IT COULD HAVE RESULTED IN A SERIOUS CRASH. THE VEHICLE WAS TAKEN TO THE DEALER TWICE FOR REPAIR FOR THE SAME FAILURE IN FEBURARY OF 2008 AND JUNE 17, 2008. THE FIRST TIME THE CAUSE OF THE FAILURE WAS IDENTIFIED AS A GLITCH WITH THE COMPUTER SWITCH THAT CONTROLS THE TRANSMISSION. AT THE SECOND VISIT, THE SHOP EXPLAINED THAT THEY COULD NOT IDENTIFY THE FAILURE. IT WOULD HAVE TO RECUR IN ORDER FOR THEM TO DIAGNOSE THE FAILURE PROPERLY. THE

CURRENT AND FAILURE MILEAGES WERE 43,000.
NHTSA ID Number: 10231507.

308. On November 13, 2008, Old GM became aware of a complaint with NHTSA regarding a 2001 Oldsmobile Intrigue, in which the following was reported:

L*THE CONTACT OWNS A 2001 OLDSMOBILE INTRIGUE. WHILE DRIVING 35 MPH, THE VEHICLE CONTINUOUSLY STALLS AND HESITATES. IN ADDITION, THE INSTRUMENT PANEL INDICATORS WOULD ILLUMINATE AT RANDOM. THE VEHICLE FAILED INSPECTION AND THE CRANKSHAFT SENSOR WAS REPLACED, WHICH HELPED WITH THE STALLING AND HESITATION; HOWEVER, THE CHECK ENGINE INDICATOR WAS STILL ILLUMINATED. DAYS AFTER THE CRANKSHAFT SENSOR WAS REPLACED, THE VEHICLE FAILED TO START. HOWEVER, ALL OF THE INSTRUMENT PANEL INDICATORS FLASHED ON AND OFF. AFTER NUMEROUS ATTEMPTS TO START THE VEHICLE, HE HAD IT JUMPSTARTED. THE VEHICLE WAS THEN ABLE TO START. WHILE DRIVING HOME, ALL OF THE LIGHTING FLASHED AND THE VEHICLE SUDDENLY SHUT OFF. THE VEHICLE LOST ALL ELECTRICAL POWER AND POWER STEERING ABILITY. THE CONTACT MANAGED TO PARK THE VEHICLE IN A PARKING LOT AND HAD IT TOWED THE FOLLOWING DAY TO A REPAIR SHOP. THE VEHICLE IS CURRENTLY STILL IN THE SHOP. THE VEHICLE HAS BEEN RECALLED IN CANADA AND HE BELIEVES THAT IT SHOULD ALSO BE RECALLED IN THE UNITED STATES. THE FAILURE MILEAGE WAS UNKNOWN AND THE CURRENT MILEAGE WAS 106,000. NHTSA ID Number: 10248694.

309. On December 10, 2008, Old GM became aware of a complaint filed with NHTSA regarding a 2004 Oldsmobile Alero and an incident that occurred on December 10, 2008, in which the following was reported:

I WAS DRIVING DOWN THE ROAD IN RUSH HOUR GOING APPROX. 55 MPH AND MY CAR COMPLETELY SHUT OFF, THE GAUGES SHUT DOWN, LOST POWER STEERING. HAD TO PULL OFF THE ROAD AS SAFELY AS POSSIBLE, PLACE VEHICLE IN PARK AND RESTART CAR. MY CAR HAS SHUT DOWN PREVIOUSLY TO THIS INCIDENT AND FEEL AS THOUGH IT NEEDS SERIOUS INVESTIGATION. I COULD HAVE BEEN ON THE HIGHWAY AND BEEN

KILLED. THIS ALSO HAS HAPPENED WHEN IN A SPIN OUT AS WELL THOUGH THIS PARTICULAR INCIDENT WAS RANDOM. *TR NHTSA ID Number: 10251280.

310. On March 31, 2009, Old GM became aware a complaint filed with NHTSA regarding a 2005 Chevrolet Malibu incident that occurred on May 30, 2008, in which it was reported that:

TL*THE CONTACT OWNS A 2005 CHEVROLET MALIBU. THE CONTACT STATED THAT THE POWER WINDOWS, LOCKS, LINKAGES, AND IGNITION SWITCH SPORADICALLY BECOME INOPERATIVE. SHE TOOK THE VEHICLE TO THE DEALER AND THEY REPLACED THE IGNITION SWITCH AT THE COST OF \$495. THE MANUFACTURER STATED THAT THEY WOULD NOT ASSUME RESPONSIBILITY FOR ANY REPAIRS BECAUSE THE VEHICLE EXCEEDED ITS MILEAGE. ALL REMEDIES AS OF MARCH 31, 2009 HAVE BEEN INSUFFICIENT IN CORRECTING THE FAILURES. THE FAILURE MILEAGE WAS 45,000 AND CURRENT MILEAGE WAS 51,000. NHTSA ID Number: 10263716.

311. The defects did not get fixed and the reports did not stop when Old GM ceased to exist. To the contrary, New GM continued receiving the same reports involving the same defects. For example, on August 11, 2010, New GM became aware of the following complaint filed with NHTSA involving a 2005 Cadillac CTS, the incident occurred on May 15, 2010, in which it was reported:

TL*THE CONTACT OWNS A 2005 CADILLAC CTS. WHILE DRIVING 40 MPH, ALL OF THE SAFETY LIGHTS ON THE DASHBOARD ILLUMINATED WHEN THE VEHICLE STALLED. THE VEHICLE WAS TURNED BACK ON IT BEGAN TO FUNCTION NORMALLY. THE FAILURE OCCURRED TWICE. THE DEALER WAS CONTACTED AND THEY STATED THAT SHE NEEDED TO BRING IT IN TO HAVE IT DIAGNOSED AGAIN. THE DEALER PREVIOUSLY STATED THAT THEY WERE UNABLE TO DUPLICATE THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE FAILURE MILEAGE WAS 4100 AND THE CURRENT MILEAGE WAS 58,000. NHTSA ID Number: 10348743.

312. On March 20, 2013, New GM became aware of a complaint filed with NHTSA regarding a 2003 Chevrolet Impala incident that occurred on March 1, 2013, in which it was reported that:

CAR WILL SHUT DOWN WHILE DRIVING AND SECURITY LIGHT WILL FLASH. HAS DONE IT NUMEROUS TIMES, WORRIED IT WILL CAUSE AN ACCIDENT. THERE ARE MULTIPLE CASES OF THIS PROBLEM ON INTERNET. *TR
NHTSA ID Number: 10503840.

313. On February 26, 2014, New GM became aware of a complaint filed with NHTSA involving a 2004 Pontiac Grand Prix, concerning an incident that occurred on May 10, 2005, in which it was reported that:

TL – THE CONTACT OWNS A 2004 PONTIAC GRAND PRIX. THE CONTACT STATED THAT WHILE DRIVING AT VARIOUS SPEEDS AND GOING OVER A BUMP, THE VEHICLE WOULD STALL WITHOUT WARNING. THE VEHICLE WAS TAKEN TO THE DEALER. THE TECHNICIAN WAS UNABLE TO DIAGNOSE THE FAILURE. THE MANUFACTURER WAS MADE AWARE OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED. THE VIN WAS NOT AVAILABLE. THE FAILURE MILEAGE WAS 12,000 AND THE CURRENT MILEAGE WAS 82,000. KMJ
NHTSA ID Number: 10566118.

314. On March 13, 2014, New GM became aware of a complaint filed with NHTSA involving a 2006 Pontiac Grand Prix and an incident that occurred on February 27, 2014, in which a driver reported:

I WAS DRIVING HOME FROM WORK AND WHEN I TURNED A CORNER, THE ENGINE CUT OUT. I BELIEVE IT WAS FROM THE KEY FLIPPING TO ACCESSORY. I'VE HEARD THAT THIS HAS CAUSED CRASHES THAT HAVE KILLED PEOPLE AND WOULD LIKE THIS FIXED. THIS IS THE FIRST TIME IT HAPPENED, BUT NOW I'M WORRIED EVERY TIME I DRIVE IT THAT THIS IS GOING TO HAPPEN AND I DON'T FEEL SAFE LETTING MY WIFE DRIVE THE CAR NOW. WHY ARE THE 2006 PONTIAC GRAND PRIX VEHICLES NOT PART OF THE RECALL FROM GM? *TR
NHTSA ID Number: 10569215.

315. On April 1, 2014, New GM became aware of a complaint filed with NHTSA involving a 2003 Cadillac CTS and an incident that occurred on January 1, 2008, in which the following was reported:

TL* THE CONTACT OWNS A 2003 CADILLAC CTS. THE CONTACT STATED THAT THE VEHICLE EXHIBITED A RECURRING STALLING FAILURE. THE VEHICLE WAS TAKEN TO THE DEALER NUMEROUS TIMES WHERE SEVERAL UNKNOWN REPAIRS WERE PERFORMED ON THE VEHICLE BUT TO NO AVAIL. THE FAILURE MILEAGE WAS 59,730 AND THE CURRENT MILEAGE WAS 79,000. UPDATED 06/30/14 MA UPDATED 07/3/2014 *JS
NHTSA ID Number: 10576468.

316. On April 1, 2014, New GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Monte Carlo and an incident that occurred on September 16, 2013, in which the following was reported:

WHILE DRIVING AT ANY SPEED THE IGNITION SYSTEM WOULD RESET LIGHTING UP THE DISPLAY CLUSTER JUST AS IF THE KEY WAS TURNED OFF AND BACK ON. THIS WOULD CAUSE A MOMENTARY SHUTDOWN OF THE ENGINE. THE PROBLEM SEEMED TO BE MORE PREVAILANT WHILE TURNING THE WHEEL FOR A CURVE OR TURN OFF THE ROAD. THE TURN SIGNAL UNIT WAS FIRST SUSPECT SINCE IT SEEMED TO CORRELATE WITH APPLYING THE TURN SIGNAL AND TURNING THE WHEEL. THE CONDITION WORSENER TO THE IGNITION SHUTDOWN FOR LONGER PERIODS SHUTTING DOWN THE ENGINE CAUSING STEERING AND BRAKING TO BE SHUT DOWN AND FINALLY DIFFICULTY STARTING THE CAR. AFTER 2 VISITS TO A GM SERVICE CENTER THE PROBLEM WAS FOUND TO BE A FAULTY IGNITION THAT WAS REPLACED AND THE PROBLEM HAS NOT RECURRED. NHTSA ID Number: 10576201.

317. On April 8, 2014, New GM became aware of a complaint with NHTSA regarding a 2003 Chevrolet Impala and an incident that occurred on August 14, 2011 and the following was reported:

I HAVE HAD INCIDENTS SEVERAL TIMES OVER THE YEARS WHERE I WOULD HIT A BUMP IN THE ROAD AND

MY CAR WOULD COMPLETELY SHUT OFF. I HAVE ALSO HAD SEVERAL INCIDENTS WHERE I WAS TRAVELING DOWN THE EXPRESSWAY AND MY CAR TURNED OFF ON ME. I HAD TO SHIFT MY CAR INTO NEUTRAL AND RESTART IT TO CONTINUE GOING. I WAS FORTUNATE NOT TO HAVE AN ACCIDENT. NHTSA ID Number: 10578158.

318. New GM has publicly admitted that it was aware of at least seven crashes, eight injuries, and three deaths linked to this serious safety defect before it finally decided to recall these dangerously defective vehicles. However, in reality, the number of reports and complaints is much higher.

319. Notwithstanding years of notice and knowledge of the defect, New GM delayed and did not implement a recall involving this defect until July of 2014.

320. New GM's supposed recall fix does not address the defect or the safety risks that it poses, including insufficient amount of torque to resist rotation from the "run" to "accessory" position under reasonably foreseeable conditions, and puts the burden on drivers to alter their behavior and carry their ignition keys separately from their other keys, and even from their remote fob. The real answer must include the replacement of all the switches with ones that have sufficient torque to resist foreseeable rotational forces.

321. In addition, New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the airbags from deploying when the ignition leaves the "run" position, even when the vehicle is moving. And New GM is not altering the placement of the ignition in an area where the driver's knees may inadvertently cause the ignition to move out of the "run" position.

7. Yet another ignition switch recall is made on September 4, 2014.

322. On September 4, 2014, New GM recalled 46,873 MY 2011-2013 Chevrolet Caprice and 2008-2009 Pontiac G8 vehicles for yet another ignition switch defect (NHTSA Recall Number 14-V-510).

323. New GM explains that, in these Defective Ignition Switch Vehicles, “there is a risk, under certain conditions, that some drivers may bump the ignition key with their knee and unintentionally move the key away from the ‘run’ position.” New GM admits that, when this happens, “engine power, and power braking will be affected, increasing the risk of a crash.” Moreover, “[t]he timing of the key movement out of the ‘run’ position, relative to the activation of the sending algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes.”⁵⁸

324. This recall is directly related to the other ignition switch recalls and involves the same safety risks and dangers. The defect poses a serious and dangerous safety risk because the key in the ignition switch can rotate and consequently cause the ignition to switch from the “on” or “run” position to the “off” or “accessory” position, which causes the loss of engine power, stalling, loss of speed control, loss of power steering, loss of power braking, and increases the risk of a crash. Moreover, as with the ignition switch torque defect, if a crash occurs, the airbags may not deploy.

325. Consistent with its pattern in the June and July recalls, New GM’s proposed remedy is to provide these Defective Ignition Switch Vehicle owners with a “revised key blade and housing assembly, in which the blade has been indexed by 90 degrees.”⁵⁹ Until the remedy is provided, New GM asserts, “it is very important that drivers adjust their seat and steering

⁵⁸ New GM’s Part 573 Safety Recall Report, Sept. 4, 2014.

column to allow clearance between their knee and the ignition key.”⁶⁰ New GM sent its recall notice to NHTSA one week later, on September 4, 2014.

326. New GM’s supposed fix does not address the defect or the safety risks that the defect poses, including the apparent insufficient torque to resist rotation from the “run” to the “accessory” position under reasonably foreseeable driving conditions, and puts the burden on drivers to alter their behavior and carry their ignition keys separately from their other keys, and even from their remote fob. The real answer must include the replacement of all the switches with ones that have sufficient torque to resist foreseeable rotational forces.

327. New GM is not addressing the other design issues that create safety risks in connection with this defect. New GM is not altering the algorithm that prevents the airbags from deploying when the ignition leaves the “run” position, even when the vehicle is moving. And New GM is not altering the placement of the ignition in an area where the driver’s knee may inadvertently cause the ignition to move out of the “run” position.

328. The September 4th recall is, like the earlier defective ignition switch recalls, too little and too late.

329. Recently discovered evidence reveals that, on December 18, 2013, New GM sent an “urgent” order to its parts supplier Delphi for 500,000 ignition switches (part number 10392423). The order was highly unusual because Delphi had shipped only 11,445 ignition switches to GM the prior year, and GM was asking Delphi to start shipments immediately. By sending this emergency order, New GM implicitly admitted that its ignition switches on the relevant vehicles being driven by Arizona consumers and other consumers throughout the country were defective and constituted a safety-related concern that these vehicles were

⁵⁹ New GM’s Part 573 Safety Recall Report, Sept. 4, 2014.

⁶⁰ *Id.*

dangerously unsafe and unreliable. New GM, however, intentionally concealed from Arizona consumers and NHTSA both its knowledge of this dangerous defect and its emergency order for half-a-million replacement parts, deliberately not alerting NHTSA for another two months, despite New GM's legal obligation to do so within five days of determining that a defect is safety-related (*see* 49 C.F.R. § 573.6).

F. Other Safety and Important Defects Affecting Numerous GM-branded Vehicles.

330. As if the many recalls for ignition switch defects was not enough to taint New GM's brand and put the lie to New GM's repeated statements that it values safety and reliability above all else, New GM has been forced to issue scores of other recalls this year involving myriad serious safety defects in a wide range of GM-branded vehicles—many of which defects were known to New GM for years.

331. Moreover, New GM's ongoing and systemic devaluation of safety issues has given rise to a host of new Defective Ignition Switch Vehicles created by New GM.

332. Many (but by no means all) of the serious defects revealed in New GM's never-ending series of recalls are discussed below.

1. Other safety defects affecting the ignition in GM-branded vehicles.

a. Ignition lock cylinder defect in vehicles also affected by the ignition switch defect that gave rise to the first recall of 2.1 million defective ignition switch vehicles.

333. On April 9, 2014, New GM recalled 2,191,014 GM-branded vehicles with faulty ignition lock cylinders.⁶¹ Though the vehicles are the same as those affected by the ignition switch torque defect,⁶² the lock cylinder defect is distinct.

⁶¹ New GM Letter to NHTSA dated April 9, 2014.

⁶² Namely, MY 2005-2010 Chevrolet Cobalts, 2006-2011 Chevrolet HHRs, 2007-2010 Pontiac G5s, 2003-2007 Saturn Ions, and 2007-2010 Saturn Skys. *See id.*

334. In these vehicles, faulty ignition lock cylinders can allow removal of the ignition key while the engine is not in the “off” position. If the ignition key is removed when the ignition is not in the “off” position, unintended vehicle motion may occur. That could cause a crash and injury to the vehicle’s occupants or pedestrians. Some of the vehicles with faulty ignition lock cylinders may fail to conform to Federal Motor Vehicle Safety Standard number 114, “*Theft Prevention and Rollaway Prevention*.”⁶³

335. The available evidence is that New GM was aware of this “key pullout defect” from the date of its inception on July 11, 2009.

b. Ignition lock cylinder defect affecting over 200,000 additional GM-branded vehicles.

336. On August 7, 2014, New GM recalled 202,155 MY 2002-2004 Saturn Vue vehicles.⁶⁴ In the affected vehicles, the ignition key can be removed when the vehicle is not in the “off” position.⁶⁵ If this happens, the vehicle can roll away, increasing the risk for a crash and occupant or pedestrian injuries.⁶⁶

337. Following New GM’s April 9, 2014 recall announcement regarding ignition switch defects, New GM reviewed field and warranty data for potential instances of ignition cylinders that permit the operator to remove the ignition key when the key is not in the “off” position in other vehicles outside of those already recalled.⁶⁷ New GM identified 152 reports of

⁶³ New GM Notice to NHTSA dated April 9, 2014, at 1.

⁶⁴ See August 7, 2014 Letter from New GM to NHTSA.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

vehicle roll away and/or ignition keys being removed when the key is not in the “off” position in the 2002-2004 MY Saturn Vue vehicles.⁶⁸

2. Defects affecting the occupant safety restraint system in GM-branded vehicles.

a. Safety defects of the airbag systems of GM-branded vehicles.

(1) Wiring harness defect.

338. On March 17, 2014, New GM recalled nearly 1.2 million vehicles, including the model year 2008-2013 Buick Enclave, 2009-2013 Chevrolet Traverse, 2008-2013 GMC Acadia, and 2008-2010 Saturn Outlook, for a dangerous defect involving airbags and seatbelt pretensioners.

339. The affected vehicles were sold with defective wiring harnesses. Increased resistance in the wiring harnesses of driver and passenger seat-mounted, side-impact airbag in the affected vehicles may cause the side impact airbags, front center airbags, and seat belt pretensioners to not deploy in a crash. The vehicles’ failure to deploy airbags and pretensioners in a crash increases the risk of injury and death to the drivers and front-seat passengers.

340. Once again, the available evidence shows that New GM knew of the dangerous airbag defect long before it took anything approaching the requisite remedial action.

(2) Driver-side airbag shorting-bar defect.

341. On June 5, 2014, New GM issued a safety recall of 38,636 MY 2012 Chevrolet Cruze, 2012 Chevrolet Camaro, 2012 Chevrolet Sonic, and 2012 Buick Verano vehicles with a driver’s airbag shorting bar defect.

342. In the affected vehicles, the driver side frontal airbag has a shorting bar which may intermittently contact the airbag terminals. If the bar and terminals are contacting each other at the time of a crash, the airbag will not deploy, increasing the driver’s risk of injury. New

⁶⁸ *Id.*

GM admits awareness of one crash with an injury where the relevant diagnostic trouble code was found at the time the vehicle was repaired. New GM is aware of other crashes involving these vehicles where airbags did not deploy but claims not to know if they were related to this defect.

343. New GM knew about the driver's airbag shorting bar defect in 2012. In fact, New GM conducted two previous recalls in connection with the shorting bar defect condition involving 7,116 vehicles—one on October 31, 2012, and one on January 24, 2013.⁶⁹ Yet it would take New GM nearly two years to finally order a broader recall.

(3) Driver-side airbag inflator defect.

344. On June 25, 2014, New GM recalled 29,019 MY 2013-2014 Chevrolet Cruze vehicles with a driver-side airbag inflator defect.

345. In the affected vehicles, the driver's front airbag inflator may have been manufactured with an incorrect part. In the event of a crash necessitating deployment of the driver-side airbag, the airbag's inflator may rupture and the airbag may not inflate. The rupture could cause metal fragments to strike and injure the vehicle's occupants. Additionally, if the airbag does not inflate, the driver will be at increased risk of injury.⁷⁰

(4) Roof-rail airbag defect.

346. On June 18, 2014, New GM recalled 16,932 MY 2011 Cadillac CTS vehicles with a roof-rail airbag defect.

347. In the affected vehicles, vibrations from the drive shaft may cause the vehicle's roll over sensor to command the roof rail airbags to deploy. If the roof rail airbags deploy unexpectedly, there is an increased risk of crash and injury to the occupants.⁷¹

⁶⁹ See New GM's Letters to NHTSA dated October 31, 2012 and January 24, 2013, respectively.

⁷⁰ See New GM's Letter to NHTSA dated June 25, 2014.

⁷¹ See June 18, 2014 New GM Letter to NHTSA.

348. Yet again, the available evidence shows that New GM was aware of this defect for years before finally taking steps to remedy it in June of 2014.

(5) Passenger-side airbag defect.

349. On May 16, 2014, GM recalled 1,953 MY 2015 Cadillac Escalade and Escalade ESV vehicles with a passenger-side airbag defect.

350. The affected vehicles do not conform to Federal Motor Vehicle Safety Standard number 208, "Occupant Crash Protection." In these vehicles, the airbag module is secured to a chute adhered to the backside of the instrument panel with an insufficiently heated infrared weld. As a result, the front passenger-side airbag will only partially deploy in the event of crash, and this will increase the risk of occupant injury.⁷²

(6) Sport seat side-impact airbag defect.

351. On June 18, 2014, New GM issued a safety recall for 712 MY 2014 Chevrolet Corvette vehicles with a sport seat side-impact airbag defect.

352. The affected vehicles do not meet a Technical Working Group Side Airbag Injury Assessment Reference Value specifications for protecting unbelted, out-of-position young children from injury. In a crash necessitating side impact airbag deployment, an unbelted, out-of-position three-year-old child may be at an increased risk of neck injury.

(7) Passenger-side airbag inflator defect.

353. On June 5, 2014, New GM recalled 61 MY 2013 Chevrolet Spark and 2013 Buick Encore vehicles with a passenger side airbag inflator defect.

⁷² See May 16, 2014 Letter from New GM to NHTSA.

354. In the affected vehicles, because of an improper weld, the front passenger airbag end cap could separate from the airbag inflator. This can prevent the airbag from deploying properly, and creates an increased risk of injury to the front passenger.⁷³

(8) Front passenger airbag defect.

355. On March 17, 2014, New GM issued a noncompliance recall of 303,013 MY 2009-2014 GMC Savana vehicles with a passenger-side instrument panel defect.⁷⁴

356. In the affected vehicles, in certain frontal impact collisions below the airbag deployment threshold, the panel covering the airbag may not sufficiently absorb the impact of the collision. These vehicles therefore do not meet the requirements of Federal Motor Vehicle Safety Standard number 201, "Occupant Protection in Interior Impact."⁷⁵

357. The defect apparently arose in early 2009, when the passenger-side airbag housing was changed from steel to plastic.⁷⁶ Inexplicably, New GM did not act to remedy this defect until March of 2014.

b. Safety defects of the seat belt systems in GM-branded vehicles.

(1) Seat belt connector cable defect.

358. On May 20, 2014, New GM issued a safety recall for nearly 1.4 million model year 2009-2014 Buick Enclave, 2009-2014 Chevrolet Traverse, 2009-2014 GMC Acadia, and 2009-2010 Saturn Outlook vehicles with a dangerous safety belt defect.

359. In the affected vehicles, "[t]he flexible steel cable that connects the safety belt to the vehicle at the outside of the front outside of the front outboard seating positions can fatigue

⁷³ See June 5, 2014 Letter from New GM to NHTSA.

⁷⁴ See March 31, 2014 Letter from New GM to NHTSA.

⁷⁵ *Id.*

⁷⁶ *Id.*

and separate over time as a result of occupant movement into the seat. In a crash, a separated cable could increase the risk of injury to the occupant.”⁷⁷

360. New GM waited more than two years after learning about this defect before disclosing it or remedying it.⁷⁸

(2) Seat belt retractor defect.

361. On June 11, 2014, New GM recalled 28,789 MY 2004-2011 Saab 9-3 Convertible vehicles with a seat belt retractor defect.

362. In the affected vehicles, the driver’s side front seat belt retractor may break, causing the seat belt webbing spooled out by the user not to retract.⁷⁹ In the event of a crash, a seat belt that has not retracted may not properly restrain the seat occupant, increasing the risk of injury to the driver.⁸⁰

363. By September of 2009 New GM was aware of an issue with seat belt retractors in MY 2004 Saab 9-3 vehicles, but waited until June of 2014 before taking steps to fully resolve the issue in all affected vehicles.

(3) Frontal lap-belt pretensioner defect.

364. On August 7, 2014, New GM recalled 48,059 MY 2013 Cadillac ATS and 2013 Buick Encore vehicles with a defect in the front lap-belt pretensioners.⁸¹

365. In the affected vehicles, the driver and passenger lap-belt pretensioner cables may not lock in a retracted position; that allows the seat belts to extend when pulled upon.⁸² If the

⁷⁷ See New GM Notice to NHTSA dated May 19, 2014, at 1.

⁷⁸ See New GM Notice to NHTSA dated May 30, 2014, at 1-3.

⁷⁹ See New GM’s June 11, 2013 Letter to NHTSA.

⁸⁰ See *id.*

⁸¹ See August 7, 2014 Letter from New GM to NHTSA.

⁸² *Id.*

seat belts do not remain locked in the retracted position, the seat occupant may not be adequately restrained in a crash, increasing the risk of injury.⁸³

3. Safety defects affecting seats in GM-branded vehicles.

366. On July 22, 2014, New GM issued a safety recall of 414,333 MY 2010-2012 Chevrolet Equinox, MY 2011-2012 Chevrolet Camaro, MY 2010-2012 Cadillac SRX, MY 2010-2012 GMC Terrain, MY 2011-2012 Buick Regal, and MY 2011-2012 Buick LaCrosse vehicles with a power height adjustable seats defect.⁸⁴

367. In the affected vehicles, the bolt that secures the height adjuster in the driver and front passenger seats may become loose or fall out. If the bolt falls out, the seat will drop suddenly to the lowest vertical position. The sudden drop can affect the driver's ability to safely operate the vehicle, and can increase the risk of injury to the driver and the front-seat passenger if there is an accident. New GM admits to knowledge of at least one crash caused by this defect.⁸⁵

368. New GM was aware of this defect by July 10, 2013 when the crash occurred, and by July 22, 2013, New GM was aware that the crash was caused when the bolt on the height adjuster fell out.⁸⁶

369. Yet New GM waited another year before issuing a safety recall.

⁸³ *Id.*

⁸⁴ *See* July 22, 2014 Letter from New GM to NHTSA.

⁸⁵ *Id.*

⁸⁶ *Id.*

4. Safety defects affecting the brakes in GM-branded vehicles.

a. Brake light defect.

370. On May 14, 2014, New GM issued a safety recall of approximately 2.4 million model year 2004-2012 Chevrolet Malibu, 2004-2007 Malibu Maxx, 2005-2010 Pontiac G6, and 2007-2010 Saturn Aura vehicles with a dangerous brake light defect.

371. In the affected vehicles, the brake lamps may fail to illuminate when the brakes are applied or illuminate when the brakes are not engaged; the same defect can disable cruise control, traction control, electronic stability control, and panic brake assist operation, thereby increasing the risk of collisions and injuries.⁸⁷

372. Once again, New GM knew of the dangerous brake light defect for years before it took anything approaching the requisite remedial action. In fact, although the brake light defect has caused at least 13 crashes since 2008, New GM did not recall all 2.4 million vehicles with the defect until May 2014.

b. Brake booster pump defect.

373. On March 17, 2014, New GM issued a safety recall of 63,903 MY 2013-2014 Cadillac XTS vehicles with a brake booster pump defect.

374. In the affected vehicles, a cavity plug on the brake boost pump connector may dislodge and allow corrosion of the brake booster pump relay connector. This can have an adverse impact on the vehicle's brakes and increase the risk of collision. This same defect can also cause a fire in the vehicle resulting from the electrical shore in the relay connector.

⁸⁷ See New GM Notification Campaign No. 14V-252 dated May 28, 2014, at 1.

c. Hydraulic boost assist defect.

375. On May 13, 2014, New GM recalled 140,067 model year 2014 Chevrolet Malibu vehicles with a hydraulic brake boost assist defect.⁸⁸

376. In the affected vehicles, the “hydraulic boost assist” may be disabled; when that happens, slowing or stopping the vehicle requires harder brake pedal force, and the vehicle will travel a greater distance before stopping. Therefore, these vehicles do not comply with Federal Motor Vehicle Safety Standard number 135, “Light Vehicle Brake Systems,” and are at increased risk of collision.⁸⁹

d. Brake rotor defect.

377. On May 7, 2014, New GM recalled 8,208 MY 2014 Chevrolet Malibu and Buick LaCrosse vehicles with a brake rotor defect.

378. In the affected vehicles, New GM may have accidentally installed rear brake rotors on the front brakes. The rear rotors are thinner than the front rotors, and the use of rear rotors in the front of the vehicle may result in a front brake pad detaching from the caliper. The detachment of a brake pad from the caliper can cause a sudden reduction in braking which lengthens the distance required to stop the vehicle and increases the risk of a crash.

e. Reduced brake performance defect.

379. On July 28, 2014, New GM recalled 1,968 MY 2009-2010 Chevrolet Aveo and 2009 Pontiac G3 vehicles.⁹⁰ Affected vehicles may contain brake fluid which does not protect against corrosion of the valves inside the anti-lock brake system module, affecting the closing

⁸⁸ See May 13, 2014 Letter from New GM to NHTSA.

⁸⁹ *Id.*

⁹⁰ See July 28, 2014 Letter from New GM to NHTSA.

motion of the valves.⁹¹ If the anti-lock brake system valve corrodes it may result in longer brake pedal travel or reduced performance, increasing the risk of a vehicle crash.⁹²

380. New GM was aware of this defect as far back as August 2012, but waited two years before issuing a recall.⁹³

f. Parking brake defect.

381. On September 20, 2014, GM recalled more than 221,000 MY 2014-15 Chevrolet Impala and 2013-15 model Cadillac XTS vehicles because of a parking-brake defect.

382. In the affected vehicles, the brake pads can stay partly engaged, which can lead to “excessive brake heat that may result in a fire,” according to documents posted on the NHTSA website.

5. Safety defects affecting the steering in GM-branded vehicles.

a. Sudden power-steering failure defect.

383. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States were sold with a safety defect that causes the vehicle’s electric power steering (“power steering”) to suddenly fail during ordinary driving conditions and revert back to manual steering, requiring greater effort by the driver to steer the vehicle and increasing the risk of collisions and injuries.

384. The affected vehicles are MY 2004-2006 and 2008-2009 Chevrolet Malibu, 2004-2006 Chevrolet Malibu Maxx, 2009-2010 Chevrolet HHR, 2010 Chevrolet Cobalt, 2005-2006 and 2008-2009 Pontiac G6, 2004-2007 Saturn Ion, and 2008-2009 Saturn Aura vehicles.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

385. As with the ignition switch defects and many of the other defects, New GM was aware of the power steering defect long before it took anything approaching full remedial action.

b. Power steering hose clamp defect.

386. On June 18, 2014, New GM issued a safety recall of 57,192 MY 2015 Chevrolet Silverado 2500/3500 HD and 2015 GMC Sierra 2500/3500 HD vehicles with a power steering hose clamp defect.

387. In the affected vehicles, the power steering hose clamp may disconnect from the power steering pump or gear, causing a loss of power steering fluid. A loss of power steering fluid can result in a loss of power steering assist and power brake assist, increasing the risk of a crash.

c. Power steering control module defect.

388. On July 22, 2014, New GM recalled 57,242 MY 2014 Chevrolet Impala vehicles with a Power Steering Control Module defect.

389. Drivers of the affected vehicles may experience reduced or no power steering assist at start-up or while driving due to a poor electrical ground connection to the Power Steering Control Module. If power steering is lost, the vehicle will revert to manual steering mode. Manual steering requires greater driver effort and increases the risk of accident. New GM acknowledges one crash related to this condition.

d. Lower control arm ball joint defect.

390. On July 18, 2014, New GM issued a safety recall of 1,919 MY 2014-2015 Chevrolet Spark vehicles with a lower control arm ball joint defect.

391. The affected vehicles were assembled with a lower control arm bolt not fastened to specification. This can cause the separation of the lower control arm from the steering

knuckle while the vehicle is being driven, and result in the loss of steering control. The loss of steering control in turn creates a risk of accident.⁹⁴

e. Steering tie-rod defect.

392. On May 13, 2014, New GM issued a safety recall of 477 MY 2014 Chevrolet Silverado, 2014 GMC Sierra, and 2015 Chevrolet Tahoe vehicles with a steering tie-rod defect.

393. In the affected vehicles, the tie-rod threaded attachment may not be properly tightened to the steering gear rack. An improperly tightened tie-rod attachment may allow the tie-rod to separate from the steering rack and greatly increases the risk of a vehicle crash.⁹⁵

f. Joint fastener torque defect.

394. On June 30, 2014, New GM issued a safety recall of 106 MY 2014 Chevrolet Camaro, 2014 Chevrolet Impala, 2014 Buick Regal, and 2014 Cadillac XTS vehicles with a joint fastener torque defect.

395. In the affected vehicles, joint fasteners were not properly torqued to specification at the assembly plant. As a result of improper torque, the fasteners may “back out” and cause a “loss of steering,” increasing the risk of a crash.⁹⁶

6. Safety defects affecting the powertrain in GM-branded vehicles.

a. Transmission shift cable defect affecting 1.1 million Chevrolet and Pontiac vehicles.

396. On May 19, 2014, New GM issued a safety recall for more than 1.1 million MY 2007-2008 Chevrolet Saturn, 2004-2008 Chevrolet Malibu, 2004-2007 Chevrolet Malibu Maxx, and 2005-2008 Pontiac G6 vehicles with dangerously defective transmission shift cables.

⁹⁴ See July 18, 2014 Letter from New GM to NHTSA.

⁹⁵ See May 27, 2014 Letter from New GM to NHTSA.

⁹⁶ See July 2, 2014 Letter from New GM to NHTSA.

397. In the affected vehicles, the shift cable may fracture at any time, preventing the driver from switching gears or placing the transmission in the “park” position. According to New GM, “[i]f the driver cannot place the vehicle in park, and exits the vehicle without applying the park brake, the vehicle could roll away and a crash could occur without prior warning.”⁹⁷

398. Yet again, New GM knew of the shift cable defect long before it issued the recent recall of more than 1.1 million vehicles with the defect.

b. Transmission shift cable defect affecting Cadillac vehicles.

399. On June 18, 2014, New GM issued a safety recall of 90,750 MY 2013-2014 Cadillac ATS and 2014 Cadillac CTS vehicles with a transmission shift cable defect.

400. In the affected vehicles, the transmission shift cable may detach from either the bracket on the transmission shifter or the bracket on the transmission. If the cable detaches while the vehicle is being driven, the transmission gear selection may not match the indicated gear and the vehicle may move in an unintended or unexpected direction, increasing the risk of a crash. Furthermore, when the driver goes to stop and park the vehicle, the transmission may not be in “PARK” even though the driver has selected the “PARK” position. If the vehicle is not in the “PARK” position, there is a risk the vehicle will roll away as the driver and other occupants exit the vehicle or anytime thereafter. A vehicle rollaway causes a risk of injury to exiting occupants and bystanders.

c. Transmission oil cooler line defect.

401. On March 31, 2014, New GM issued a safety recall of 489,936 MY 2014 Chevy Silverado, 2014 GMC Sierra, 2014 GMC Yukon, 2014 GMC Yukon XL, 2015 Chevy Tahoe, and 2015 Chevy Suburban vehicles with a transmission oil cooler line defect.

⁹⁷ See New GM letter to NHTSA Re: NHTSA Campaign No. 14V-224 dated May 22, 2014, at 1.

402. In the affected vehicles, the transmission oil cooler lines may not be securely seated in the fitting. This can cause transmission oil to leak from the fitting, where it can contact a hot surface and cause a vehicle fire.

d. Transfer case control module software defect.

403. On June 26, 2014, New GM issued a safety recall of 392,459 MY 2014-2015 Chevrolet Silverado, 2015 Chevrolet Tahoe, 2015 Chevrolet Suburban, 2014-2015 GMC Sierra, 2015 GMC Yukon, and 2015 GMC Yukon XL vehicles with a transfer case control module software defect.

404. In the affected vehicles, the transfer case may electronically switch to neutral without input from the driver. If the transfer case switches to neutral while the vehicle is parked and the parking brake is not in use, the vehicle may roll away and cause injury to bystanders. If the transfer case switches to neutral while the vehicle is being driven, the vehicle will lose drive power, increasing the risk of a crash.

e. Acceleration-lag defect.

405. On April 24, 2014, New GM issued a safety recall of 50,571 MY 2013 Cadillac SRX vehicles with an acceleration-lag defect.

406. In the affected vehicles, there may be a three to four-second lag in acceleration due to faulty transmission control module programming. That can increase the risk of a crash.

f. Transmission turbine shaft fracture defect.

407. On June 11, 2014, New GM recalled 21,567 MY 2012 Chevrolet Sonic vehicles equipped with a 6 Speed Automatic Transmission and a 1.8L Four Cylinder Engine suffering from a turbine shaft fracture defect.

408. In the affected vehicles, the transmission turbine shaft may fracture. If the transmission turbine shaft fracture occurs during vehicle operation in first or second gear, the

vehicle will not upshift to the third through sixth gears, limiting the vehicle's speed. If the fracture occurs during operation in third through sixth gear, the vehicle will coast until it slows enough to downshift to first or second gear, increasing the risk of a crash.⁹⁸

g. Automatic transmission shift cable adjuster.

409. On February 20, 2014, New GM issued a noncompliance recall of 352 MY 2014 Buick Enclave, Buick LaCrosse, Buick Regal, Buick Verano, Chevrolet Cruze, Chevrolet Impala, Chevrolet Malibu, Chevrolet Traverse, and GMC Acadia vehicles with defective automatic transmission shift cable adjusters.⁹⁹

410. In the affected vehicles, one end of the transmission shift cable adjuster body has four legs that snap over a ball stud on the transmission shift lever. One or more of these legs may have been fractured during installation. If any of the legs are fractured, the transmission shift cable adjuster may disengage from the transmission shift lever. When that happens, the driver may be unable to shift gears, and the indicated gear position may not be accurate. If the adjuster is disengaged when the driver attempts to stop and park the vehicle, the driver may be able to shift the lever to the "PARK" position but the vehicle transmission may not be in the "PARK" gear position. That creates the risk that the vehicle will roll away as the driver and other occupants exit the vehicle, or anytime thereafter.¹⁰⁰

7. Other serious defects affecting GM-branded vehicles.

a. Power management mode software defect.

411. On January 13, 2014, New GM issued a safety recall of 324,970 MY 2014 Chevy Silverado and GMC Sierra Vehicles with a Power Management Mode software defect.¹⁰¹

⁹⁸ See June 11, 2014 Letter from New GM to NHTSA.

⁹⁹ See February 20, 2014 Letter from New GM to NHTSA.

¹⁰⁰ *Id.*

¹⁰¹ See New GM Letter to NHTSA dated January 23, 2014.

412. In the affected vehicles, the exhaust components can overheat, melt nearby plastic parts, and cause an engine fire. GM acknowledges that the Power Management Mode software defect is responsible for at least six fires in the affected vehicles.¹⁰²

b. Light control module defect.

413. On May 16, 2014, New GM issued a safety recall of 217,578 model year 2004-2008 Chevrolet Aveo vehicles with a light control module defect.¹⁰³

414. In the vehicles, heat generated within the daytime running lamp module in the center console in the instrument panel may melt the module and cause a vehicle fire.¹⁰⁴ New GM first became aware of this issue when two Suzuki Forenza vehicles suffered interior fires in March of 2012. An investigation conducted by GM North America found evidence that the fires emanated from the connection of the wiring at the module.¹⁰⁵

415. New GM took no remedial action at this time, but waited until May of 2014 to issue a safety recall.

c. Electrical short in driver's door module defect.

416. On June 30, 2014, New GM issued a safety recall of 181,984 model year 2005-2007 Chevrolet Trailblazer, 2006 Chevrolet Trailblazer EXT, 2005-2007 Buick Rainier, 2005-2007 GMC Envoy, 2006 GMC Envoy XL, 2005-2007 Isuzu Ascender, and 2005-2007 Saab 9-7x vehicles with a defect that can cause an electrical short in the driver's door module.¹⁰⁶

¹⁰² *Id.*

¹⁰³ *See* May 30, 2014 Letter from New GM to NHTSA.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *See* July 2, 2014 Letter from New GM to NHTSA.

417. In the affected vehicles, an electrical short in the driver's door module may occur that can disable the power door lock and window switches and overheat the module. The overheated module can then cause a fire in the affected vehicles.

d. Front axle shaft defect.

418. On March 28, 2014, New GM issued a safety recall of 174,046 model year 2013-2014 Chevrolet Cruze vehicles with dangerous front axle shaft defect.¹⁰⁷

419. In the affected vehicles, the right front axle shaft may fracture and separate. If this happens while the vehicle is being driven, the vehicle will lose power and coast to a halt. If a vehicle with a fractured shaft is parked and the parking brake is not applied, the vehicle may move unexpectedly and cause accident and injury.¹⁰⁸

420. New GM admits to knowledge of "several dozen" half-shaft fractures through its warranty data.¹⁰⁹ These incidents should have been prevented, since New GM was aware of the problem by September of 2013.

e. Seat hook weld defect.

421. On July 22, 2014, New GM recalled 124,007 model year 2014 Chevrolet SS, 2014 Chevrolet Caprice, 2014 Chevrolet Caprice PPC, 2014 Chevrolet Silverado 1500, 2015 Chevrolet Silverado 2500/3500 HD, 2013-2014 Buick Encore, 2013-2014 Cadillac ATS, 2014 Cadillac CTS, 2014 Cadillac ELR, 2014 GMC Sierra 1500, and 2015 GMC Sierra 2500/3500 HD vehicles with a seat hook weld defect.¹¹⁰

¹⁰⁷ See March 28, 2014 Letter from New GM to NHTSA.

¹⁰⁸ *Id.*

¹⁰⁹ "GM recalls 172,000 Chevrolet Cruze Sedans over front axle half-shaft," *Bloomberg*, March 31, 2014.

¹¹⁰ See July 22, 2014 Letter from New GM to NHTSA.

422. In the affected vehicles, as the result of an incomplete weld on the seat hook bracket assembly, in a “high load” situation, “the hook may separate from the seat track, increasing the risk of occupant injury in a crash.”¹¹¹

f. Front turn signal bulb defect.

423. On July 21, 2014, New GM recalled 120,426 model year 2013 Chevrolet Malibu and 2011-2013 Buick Regal vehicles with a front turn signal bulb defect.

424. In the affected vehicles, the driver will see a rapidly flashing turn signal arrow in the instrument cluster if both bulbs in one turn signal are burned out; but if only one bulb on either side burns out, there will be no signal to the driver. The failure to properly warn the driver that a turn signal is inoperable increases the risk of accident.

425. New GM first learned of the defect on September 6, 2012, but did not issue a recall until July of 2014.

g. Low-beam headlight defect.

426. On May 14, 2014, New GM issued a safety recall of 103,158 MY 2005-2007 Chevrolet Corvette vehicles with a low-beam headlight defect.

427. In the affected vehicles, the underhood bussed electrical center housing can expand and cause the headlamp low beam relay control circuit wire to bend. When the wire is repeatedly bent, it can fracture and cause a loss of low-beam headlamp illumination. The loss of illumination decreases the driver’s visibility and the vehicle’s conspicuity to other motorists, increasing the risk of a crash.

h. Radio chime defect.

428. On June 5, 2014, New GM issued a noncompliance recall of 57,512 MY 2014 Chevrolet Silverado LD, 2015 Chevrolet Silverado HD, 2015 Chevrolet Suburban, 2015

¹¹¹ *Id.*

Chevrolet Tahoe, 2014 GMC Sierra LD, and 2015 GMC Sierra HD vehicles with a radio chime defect.

429. In the affected vehicles, the radios may become inoperative; when that happens, there is no audible chime to notify the driver if the door is opened with the key in the ignition and no audible seat belt warning indicating that the seat belts are not buckled. These vehicles fail to comply with the requirements of FMVSS numbers 114, "Theft Protection and Rollaway Prevention," and 208, "Occupant Crash Protection." Without an audible indicator, the driver may not be aware that the driver's door is open while the key is in the ignition, and that creates a risk of a vehicle rollaway. Additionally, there will be no reminder that the driver's or front seat passenger's seat belt is not buckled, which increases the risk of injury in a crash.

i. Fuel gauge defect.

430. On April 29, 2014, New GM issued a safety recall of 51,460 MY 2014 Chevrolet Traverse, GMC Acadia, and Buick Enclave vehicles with a fuel gauge defect.

431. In the affected vehicles, the engine control module software may cause inaccurate fuel gauge readings. An inaccurate fuel gauge may result in the vehicle unexpectedly running out of fuel and stalling, and thereby increases the risk of accident.

j. Windshield wiper system defect.

432. On May 14, 2014, New GM recalled 19,225 MY 2014 Cadillac CTS vehicles with a windshield wiper system defect.

433. In the affected vehicles, a defect leaves the windshield wiper system prone to failure; though the windshield wipers systems are particularly prone to failure after a vehicle jump start occurs while the wipers are on and restricted by snow and ice, "an unstable voltage in

the vehicle can reproduce this condition without an external jump start.” Inoperative windshield wipers can decrease the driver’s visibility and increase the risk of a crash.¹¹²

k. Console bin door latch defect.

434. On August 7, 2014, New GM issued a safety recall of 14,940 MY 2014-2015 Chevrolet Impala vehicles with a console bin door latch defect.¹¹³

435. In the affected vehicles, the inertia latch on the front console bin compartment door may not engage in the event of a rear collision and the front console compartment door may open, increasing the risk of occupant injury.¹¹⁴ These vehicles fail to comply with the requirements of FMVSS No. 201, “Occupant Protection in Interior Impact.”¹¹⁵

l. Driver door wiring splice defect.

436. On June 11, 2014, New GM recalled 14,765 MY 2014 Buick LaCrosse vehicles with a driver door wiring splice defect.

437. In the affected vehicles, a wiring splice in the driver’s door may corrode and break, resulting in the absence of an audible chime to notify the driver if the door is opened while the key is in the ignition. Additionally, the Retained Accessory Power module may stay active for ten minutes allowing the operation of the passenger windows, rear windows, and sunroof. As such, these vehicles fail to comply with the requirements of FMVSS numbers 114, “Theft Protection and Rollaway Prevention,” and 118, “Power-Operated Window, Partition, and Roof Panel Systems.” Without an audible indicator, the driver may not be aware that the driver’s door is open while the key is in the ignition, increasing the risk of a vehicle rollaway. If the passenger windows, rear windows, and sunroof can function when the vehicle is turned off and

¹¹² See May 28, 2014 Letter to NHTSA.

¹¹³ See August 7, 2014 Letter from New GM to NHTSA.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

the driver is not in the vehicle, there is an increased risk of injury if an unsupervised occupant operates the power closures.

m. Overloaded feed defect.

438. On July 2, 2014, New GM recalled 9,371 MY 2007-2011 Chevrolet Silverado and 2007-2011 GMC Sierra HD vehicles with an overloaded feed defect.

439. In the affected vehicles, an overload in the feed may cause the underhood fusible link to melt due to electrical overload, resulting in potential smoke or flames that could damage the electrical center cover and/or the nearby wiring harness conduit.

440. New GM was aware of this defect for at least two years before taking action to remedy it through a recall.

n. Windshield wiper module assembly defect.

441. On June 26, 2014, New GM recalled 4,794 MY 2013-2014 Chevrolet Caprice and 2014 Chevrolet SS vehicles with a windshield wiper module assembly defect.

442. In the affected vehicles, the motor gear teeth may become stripped and the wipers inoperable. Inoperable wipers increase the risk of accident in inclement conditions.

o. Engine block heater power cord insulation defect.

443. On July 2, 2014, New GM issued a safety recall of 2,990 MY 2013-2014 Chevrolet Cruze, 2012-2014 Chevrolet Sonic, 2013-2014 Buick Encore, and 2013-2014 Buick Verano vehicles with an engine block heater power cord insulation defect.

444. In the affected vehicles the insulation on the engine block heater cord can be damaged, exposing the wires. Exposed wires increase the risk of electrical shock and personal injury if the cord is handled while plugged in.

p. Rear shock absorber defect.

445. On June 27, 2014, New GM issued a safety recall of 1,939 MY 2014 Chevrolet Corvette vehicles with a rear shock absorber defect.

446. In the affected vehicles, an insufficient weld in the rear shocks can cause the shock absorber tube to separate from the shock absorber bracket. That separation may cause a sudden change in vehicle handling behavior that can startle drivers and increase the risk of a crash.¹¹⁶

q. Electronic stability control defect.

447. On March 26, 2014, New GM issued a safety recall for 656 MY 2014 Cadillac ELR vehicles with an electronic stability control defect.

448. In the affected vehicles, the electronic stability control system software may inhibit certain diagnostics and fail to alert the driver that the electronic stability control system is partially or fully disabled. Therefore, these vehicles fail to conform to FMVSS number 126, “Electronic Stability Control Systems.” A driver who is not alerted to an electronic stability control system malfunction may continue driving with a disabled system. That may result in the loss of directional control, greatly increasing the risk of a crash.¹¹⁷

r. Unsecured floor mat defect.

449. On June 18, 2014, New GM issued a safety recall of 184 MY 2014 Chevrolet Silverado LD and 2014 GMC Sierra LD vehicles with an unsecured floor mat defect.

450. The affected vehicles built with the optional vinyl flooring option and equipped with the optional All-Weather Floor Mats do not have the retention features necessary to

¹¹⁶ See June 26, 2014 Letter from New GM to NHTSA.

¹¹⁷ See March 26, 2014 Letter from New GM to NHTSA.

properly secure the floor mat on the driver's side. The driver's floor mat can shift such that it interferes with the accelerator pedal, and thus increases the risk of a crash.¹¹⁸

s. Fuse block defect.

451. On May 23, 2014, New GM issued a safety recall of 58 MY 2015 Chevrolet Silverado HD and GMC Sierra HD vehicles with a fuse block defect.

452. In the affected vehicles, the retention clips that attach the fuse block to the vehicle body can become loose allowing the fuse block to move out of position. When this occurs, exposed conductors in the fuse block may contact the mounting studs or other metallic components, which in turn causes a "short to ground" event. That can result in an arcing condition, igniting nearby combustible materials and starting an engine fire.¹¹⁹

t. Diesel transfer pump defect.

453. On April 24, 2014, New GM issued a safety recall of 51 MY 2015 GMC Sierra HD and 2015 Chevrolet Silverado HD vehicles.

454. In the affected vehicles, the fuel pipe tube nuts on both sides of the diesel fuel transfer pump may not be tightened to the properly torque. That can result in a diesel fuel leak, which can cause a vehicle fire.¹²⁰

u. Rear suspension toe adjuster link defect.

455. On September 17, 2014, New GM issued a safety recall for 290,241 MY 2010-2015 Cadillac SRX and 2011-2012 Saab 9-4x vehicles with a rear suspension toe adjuster link defect that can cause vehicles to sway or wander on the road.¹²¹

¹¹⁸ See June 18, 2014 Letter from New GM to NHTSA.

¹¹⁹ See May 30, 2014 Letter from New GM to NHTSA.

¹²⁰ See April 24, 2014 Letter from New GM to NHTSA.

¹²¹ See New GM's Sept. 17, 2014 Part 573 Safety Report.

456. According to New GM, in the affected vehicles, “the jam nut in the rear suspension toe adjuster link may not be torqued to the proper specification. A loose toe adjuster link can cause the vehicle to sway or wander at highway speed, activate the vehicle’s electronic stability control system, and cause excessive wear to the threads in the link...If the threads in the link become worn, the link may separate.”¹²² If the link separates, that “would create sudden vehicle instability, increasing the risk of a crash.”¹²³

457. Once again, New GM should have picked up on this defect years earlier. In fact, in 2011, New GM conducted a safety recall of Cadillac CTS vehicles with a similar rear suspension toe adjuster link defect.¹²⁴

v. Hood latch defect

458. On September 23, 2014, New GM recalled 89,294 MY 2013-2015 Chevrolet Spark vehicles with a hood latch defect.¹²⁵

459. According to New GM, the affected vehicles “were manufactured with a secondary hood latch that may prematurely corrode at the latch pivot causing the striker to get stuck out of position and preventing the striker from properly engaging the hood latch.”¹²⁶ If this happens, “the vehicle’s hood may open unexpectedly,” and that will “likely” impair the driver’s vision and increase the risk of a collision.¹²⁷

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See New GM’s September 23, 2014 Part 573 Safety Recall Report.

¹²⁶ *Id.*

¹²⁷ *Id.*

w. Electrical short defect.

460. On October 2, 2014, New GM announced a recall of 117,652 MY 2013-2014 Chevrolet Tahoe, 2013-2014 Chevrolet Suburban, 2013-2014 GMC Yukon, 2013-2014 GMC Yukon, 2013-2014 Cadillac Escalade, 2013-2014 Cadillac CTS, 2014 Chevrolet Traverse, 2014 GMC Acadia, 2014 Buick Enclave, 2014 Chevrolet Express, 2014 GMC Savana, 2014 Chevrolet Silverado, and 2014 GMC Sierra vehicles with a defect that can cause an electrical short.¹²⁸

461. In the affected vehicles, due to a defect in the chassis control module, metal slivers can cause an electrical short that results in the vehicle stalling or not starting.¹²⁹ This creates a serious risk of accident.

G. New GM's Deception In Connection With the Recalls Has Harmed Arizona Consumers Who Own or Lease GM-Branded Vehicles.

462. New GM was well aware that vehicle recalls, especially untimely ones, can taint its brand image and the value of its vehicles. In its 2010 Form 10-K submitted to the SEC, New GM admitted that “Product recalls can harm our reputation and cause us to lose customers, particularly if those recalls cause consumers to question the safety or reliability of our products. Any costs incurred or lost sales caused by future product recalls could materially adversely affect our business.”¹³⁰

463. Unfortunately for owners of GM-branded vehicles, New GM was correct. It is difficult to find a brand whose reputation has taken as great a beating as has the New GM brand starting in February 2014 when the first ignition switch recall occurred.

¹²⁸ See “GM recalls 117,651 vehicles for potential electrical short issue,” Reuters (Oct. 2, 2014).

¹²⁹ *Id.*

¹³⁰ General Motors 2010 Form 10-K, p. 31, available at <https://www.sec.gov/Archives/edgar/data/1467858/000119312510078119/dlOk.htm#toc857334>.

464. In fact, the public outcry has been significant in response to the ongoing revelations of the massive number of defects New GM concealed, and the massive number of defective vehicles New GM has sold. The following are illustrative examples of the almost constant beating the New GM brand has taken ever since the first ignition switch recall was announced on July 13, 2014.

465. After the announcement the first ignition switch recall the media was highly critical of New GM. For example, a CBS February 27, 2014, news report headlined:

By AIMEE PICCHI / MONEYWATCH / February 27, 2014, 1:42 PM

Did GM wait too long to issue its recall?

466. The CBS report had a video link:¹³¹



Play VIDEO

13 deaths now linked to GM faulty ignition switches, recall expanded

467. On March 13, 2014 a CNN report was entitled:

Feds demand answers from GM on recall defect

By Mike M. Ahlers, CNN

updated 7:51 AM EDT, Thu March 13, 2014

¹³¹ <http://www.cbsnews.com/news/did-general-motors-wait-too-long-to-issue-its-recall/>.

468. On March 16, 2014, Reuters reported as follows:

Owners of recalled GM cars feel angry, vindicated

(Reuters) – As details emerge about how General Motors Co dealt with faulty ignition switches in some of its models, car owners are increasingly angry after learning that the automaker knowingly allowed them to drive defective vehicles.

Saturn Ion owner Nancy Bowman of Washington, Michigan, said she is outraged that GM allowed her to drive a “death trap.” She said her car had so many ignition problems she was afraid to resell it to an innocent buyer.

She bought the 2004 model car new and still drives it after extensive repairs and multiple run-ins with a Saturn dealer she called dismissive.

“Five times the car died right out from under me after hitting a bump in the road,” she wrote in a 2013 posting on a complaint website, arfc.org, that says it sends information to the National Highway Traffic Safety Administration (NHTSA).

Every time I brought it in they said it was an isolated incident. Couldn't find the problem, so they acted like I was an idiot.

469. On March 24, 2014, the NEW YORK TIMES issued an article entitled:

BUSINESS DAY

General Motors Mised Grieving Families on a Lethal Flaw

By HILARY STOUT, BILL VLASIC, DANIELLE IVORY and REBECCA R. RUIZ MARCH 24, 2014

470. It contained a troublesome account of New GM's conduct:

It was nearly five years ago that any doubts were laid to rest among engineers at General Motors about a dangerous and faulty ignition switch. At a meeting on May 15, 2009, they learned that data in the black boxes of Chevrolet Cobalts confirmed a potentially fatal defect existed in hundreds of thousands of cars.

But in the months and years that followed, as a trove of internal documents and studies mounted, G.M. told the families of accident victims and other customers that it did not have enough evidence of any defect in their cars, interviews, letters and legal documents show. Last month, G.M. recalled 1.6 million Cobalts and other

small cars, saying that if the switch was bumped or weighed down it could shut off the engine's power and disable air bags.

In one case, G.M. threatened to come after the family of an accident victim for reimbursement of legal fees if the family did not withdraw its lawsuit. In another instance, it dismissed a family with a terse, formulaic letter, saying there was no basis for claims.

* * *

Since the engineers' meeting in May 2009, at least 23 fatal crashes have involved the recalled models, resulting in 26 deaths. G.M. reported the accidents to the government under a system called Early Warning Reporting, which requires automakers to disclose claims they receive blaming vehicle defects for serious injuries or deaths.

A New York Times review of 19 of those accidents – where victims were identified through interviews with survivors, family members, lawyers and law enforcement officials – found that G.M. pushed back against families in at least two of the accidents, and reached settlements that required the victims to keep the discussions confidential.

* * *

In other instances, G.M. ignored repeated calls, families said. “We did call G.M.,” said Leslie Dueno, whose 18-year-old son, Christopher Hamberg, was killed on June 12, 2009 – not quite a month after the critical May 15 meeting of G.M. engineers about the ignition data – driving his 2007 Cobalt home before dawn in Houston. He lost control at 45 miles per hour and hit a curb, then a tree, the police report said. “Nobody ever called me. They never followed up. Ever.”

Last month's recalls of the Cobalt and five other models encompassed model years 2003 through 2007. G.M. faces numerous investigations, including one by the Justice Department looking into the company's disclosures in its 2009 bankruptcy filing as well as what it told regulators.

“We are conducting an unsparing, comprehensive review of the circumstances leading to the ignition switch recall,” G.M. said in a statement on Monday. “As part of that review we are examining previous claims and our response to them. If anything changes as a result of our review, we will promptly bring that to the attention of regulators.”

G.M. has said it has evidence of 12 deaths tied to the switch problem, but it has declined to give details other than to say that they all occurred in 2009 or earlier. It says it has no conclusive evidence of more recent deaths tied to the switch.

* * *

It was unclear how many of the 26 deaths since the 2009 meeting were related to the faulty ignition, but some appeared to fit patterns that reflected the problem, such as an inexplicable loss of control or air bags that did not deploy. In some cases, the drivers had put themselves at risk, including having high blood-alcohol levels or texting.

Still, by the time Benjamin Hair, 20, crashed into a tree in Charlottesville, Va., on Dec. 13, 2009, while driving a Pontiac G5 home, G.M. had conducted five internal studies about the ignition problem, its records indicate.

...

Consumer complaints and claims came to the company in a variety of ways – through lawsuits, calls, letters and emails, warranty claims, or insurance claims. G.M.'s legal staff was the recipient of lawsuits, insurance information, accident reports and any other litigation-related paperwork. But warranty claims and customer calls were routed through the sales and service division – a vast bureaucracy that occupies most of one tower at G.M.'s headquarters in Detroit. Because the legal staff reports to the chief executive, and the sales department to the head of G.M. North America, it is unclear whether they share information related to a specific car, like the Cobalt.

471. NPR ran a story on March 31, 2014:

[news > business](#)

Timeline: A History Of GM's Ignition Switch Defect

by TANYA BASU

March 31, 2014 4:33 PM ET

472. The NPR story raised questions about New GM's candor:

NPR looked into the timeline of events that led to the recall. It's long and winding, and it presents many questions about how GM handled the situation: How long did the company know of the problem? Why did the company not inform federal safety officials of the problem sooner? Why weren't recalls done sooner? And did GM continue to manufacture models knowing of the defect?

473. On May 11, 2014, the CHICAGO TRIBUNE ran an article entitled:

GM ranked worst automaker by U.S. suppliers: survey

DETROIT (Reuters) – General Motors Co, already locked in a public relations crisis because of a deadly ignition defect that has triggered the recall of 2.6 million vehicles, has a new perception problem on its hands.

The U.S. company is now considered the worst big automaker to deal with, according to a new survey of top suppliers to the car industry in the United States.

Those so-called “Tier 1” suppliers say GM is now their least favorite big customer, according to the rankings, less popular even than Chrysler, the unit of Fiat Chrysler Automobiles FIA.MI, which since 2008 had consistently earned that dubious distinction.

Suppliers gave GM low marks on all kinds of key measures, including its overall trustworthiness, its communication skills, and its protection of intellectual property.

474. On May 25, 2014, an article reported on a 2.4 million vehicle recall:

When Will GM's Recall Mess End?

General Motors (NYSE: GM) on Tuesday said it is recalling about 2.4 million additional vehicles in four separate recalls for a variety of problems, including faulty seat belts and gearshift troubles.

This announcement came on the heels of another set of GM recalls, announced last Thursday, covering 2.7 million vehicles. Including the four recalls announced on Tuesday, GM has issued a total of 30 recalls in the U.S. so far in 2014, encompassing about 13.8 million vehicles.

That's a stupendous number.^[132]

475. On May 26, 2014, the NEW YORK TIMES ran an article:

BUSINESS DAY

13 Deaths, Untold Heartache, From G.M. Defect

By REBECCA R. RUIZ, DANIELLE IVORY and HILARY STOUT MAY 26, 2014

¹³² <http://www.fool.com/investing/general/2014/05/25/when-will-gms-recall-mess-end.aspx>.

476. The article once again pointed blame at GM:

BEN WHEELER, Tex. – For most of the last decade, Candice Anderson has carried unspeakable guilt over the death of her boyfriend. He was killed in 2004 in a car accident here, and she was at the wheel. At one point, Ms. Anderson, who had a trace of Xanax in her blood, even faced a manslaughter charge. She was 21.

All these years, Ms. Anderson – now engaged and a mother – has been a devoted visitor to his grave. She tidies it every season, sweeping away leaves and setting down blue daisies with gold glitter for his birthday, miniature lit trees for Christmas, stones with etched sayings for the anniversary of their accident.

“It’s torn me up,” Ms. Anderson said of the death of Gene Mikale Erickson. “I’ve always wondered, was it really my fault?”

Last week, she learned it was not.

* * *

Inside G.M., the nation’s largest automaker, some of the 13 victims appear on charts and graphs with a date and a single word: “fatal.”

477. News of New GM’s misconduct and of the recalls made the front page of every major newspaper and was the lead story on every major television news program in the country.

478. The congressional hearings where New GM executives were subject to harsh questioning and criticism were widely reported in every type of media.

479. In June 2014 New GM recalled another 8.2 million vehicles and again these recalls received widespread attention in the press. The stories often included charts and graphs depicting the ever-growing list of vehicles recalled:

GM to recall 8.2 million more vehicles over ignition-switch defect

POSTED AT 3:21 PM ON JUNE 30, 2014

The recall blues continue at GM, as does the scope of their previously hidden ignition-switch defect. The world’s largest automaker added 8.45 million more vehicles to its list, with some

models going back to 1997. This puts GM over the 28-million mark for cars recalled on a global basis in 2014, and over 26 million domestic.^[133]

480. The coverage did not simply die down as often happens. On July 15, 2014, the NEW YORK TIMES ran an article entitled, “Documents Show General Motors Kept Silent on Fatal Crashes.”

481. By August 2, 2014, the press was reporting that used GM-branded vehicles were losing value:

THE DALLAS MORNING NEWS

August 2, 2014 Saturday

1 Edition

SECTION: BRIEFING; Pg. 10

LENGTH: 80 words

HEADLINE: GM vehicles’ resale values are taking a hit as safety recalls mount

BODY:

Although General Motors’ sales remained solid in the midst of its recent record recalls, some vehicles experienced significant drops in their resale values.

In an analysis of more than 11 million used cars for sale between March and June of this year, iSeeCars.com found that the resale values of the main vehicles in GM’s recalls dropped 14 percent from the same period last year.

482. An August 5, 2014 article also reported that used GM-branded vehicles were suffering loss in value due to the recalls:¹³⁴

¹³³ <http://hotair.com/archives/2014/06/30/gm-to-recall-8-2-million-more-vehicles-over-ignition-switch-defect-8-45-million-overall/>.

¹³⁴ Doron Levin, FORTUNE MAGAZINE, August 5, 2014.

AUTOS GM

Used GM cars affected by recall getting hurt in the marketplace

by Doron Levin @FortuneMagazine AUGUST 5, 2014, 2:25 PM EDT

Ignition recall caused resale values to take a hit—some Pontiac, Saturn and Chevy models were most affected.

General Motors Co. GM -0.41% has been fortunate to avoid a collapse of new-vehicle sales since the ignition-switch safety crisis blew up in January, engulfing the automaker in litigation, a federal criminal probe and Congressional inquiries.

Used GM vehicles – models affected by the recall – meanwhile have taken a substantial hit in value, according to a study by iSeeCars.com, an online search engine. GM's new-vehicles sales are up 3.5% in the U.S. through July in a market that has risen 5% in terms of unit sales.

(Holders of GM stock have gotten whacked as well since January, the value of shares falling nearly 18%, compared with a S&P 500 Index that has risen 4% during the period.)

The operators of the search engine said they created an algorithm to determine the market value of six GM cars affected by the recall, based on asking prices of used vehicles on dealer lots from March to June 2013, compared to a year later. The change in value also was compared to the dropping value of all used cars in the U.S., which has been occurring for the past few months. The sample size was 11 million cars.

The average price of the recalled GM models dropped 14% from March to June 2014, compared to a year earlier and adjusted for inflation. The drop in value of all similar models was 6.7% during the same period.

Phong Ly, chief executive and co-founder of iSeeCars.com said “recalls are playing a role in motivating sellers to sell their used cars and at a lower price point than they otherwise would.” His company provides free information to car shoppers and sells sales leads to dealers.

483. The crisis that affected the GM Brand was so significant that New GM stock has been battered. A September 22, 2014 report observed:¹³⁵

GM Falls Deeper Into The Abyss

Sep. 22, 2014 7:55 AM ET | About: General Motors Company (GM)

Summary

- GM has been in a rut since the ignition switch recalls.
- More and more, GM is coming off as a perpetually troubled business.
- We continue to avoid General Motors stock.

We previously wrote about GM (NYSE:GM) and placed a \$31 price target on it here. Our basic argument was that GM was going to have trouble presenting itself into the mainstream as a reputable brand to buy after the ignition switch recall.

Late Sunday, it was announced that GM was recalling 222,500 vehicles due to brake pad malfunction. This number towers over the amount of normal recalls that come during the course of business. It's also involving vehicles that were made from 2013 to 2015, a clear indicator that these vehicles (manufactured by the post-bankruptcy GM) should have had a renewed focus of safety on them from the beginning.

484. New GM's stock price hit a 52-week low on October 10, 2014.

485. New GM's unprecedented concealment of a large number of serious defects, and its dangerously irresponsible approach to safety, quality, and reliability issues, has caused damage to Arizona consumers who own or lease GM-branded vehicles acquired on or after July 11, 2009.

486. A vehicle made by a reputable manufacturer of safe, high quality, and reliable vehicles who stands behind its vehicles after they are sold is worth more than an otherwise

¹³⁵ See <http://seekingalpha.com/article/2511545-gm-falls-deeper-into-the-abyss>.

similar vehicle made by a disreputable manufacturer known for selling defective vehicles and for concealing and failing to remedy serious defects after the vehicles are sold.

487. 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 recent history of concealing serious defects from consumers and regulators.

488. Purchasers and lessees of GM-branded vehicles on or after the July 11, 2009, inception of New GM paid more for the vehicles than they would have had New GM disclosed the many defects it had a duty to disclose in GM-branded vehicles, and disclosed that the company's culture and business model was such that it did not produce safe, high quality, and reliable vehicles. Because New GM concealed the defects and the fact that it was a disreputable brand that valued cost-cutting over safety, Arizona consumers did not receive the benefit of their bargain. And the value of all their vehicles has diminished as the result of New GM's deceptive conduct.

489. On information and belief, an estimate of the diminished value in GM-branded vehicles not subject to the ignition switch recall is illustrated by way of example as follows for a few Model Year 2013 vehicles:

GMC	Terrain	September Diminished Value: \$1,052
GMC	Sierra 1500	September Diminished Value: \$325
Buick	Lacrosse	September Diminished Value: \$954
Chevrolet	Suburban	September Diminished Value: \$854
Cadillac	CTS	September Diminished Value: \$867
Cadillac	XTS	September Diminished Value: \$1,722

490. Another example is the diminished value of illustrative 2011 models:

GMC	Terrain	September Diminished Value: \$891
Buick	Lacrosse	September Diminished Value: \$1,017

491. GM-branded vehicles not involved in the ignition switch recall experienced declines in value when the ignition switch recalls occurred due to the impact on the perception of buyers concerning New GM's promises of safety and reliability. As news of New GM's culture of deceit grew, so did diminished value. The following estimates are examples:

	Diminished Value as of 03/2014	Diminished Value as of 09/2014
2008 Cadillac STS	\$249	\$1,243
2008 GMC Acadia	\$730	\$1,011
2010 GMC Terrain	\$403	\$912

492. GM-branded vehicles subject to the ignition switch recall also have suffered diminished value by way of example:

	Diminished Value as of 03/2014	Diminished Value as of 09/2014
2008 Cobalt	\$256	\$357
2008 HHR	\$162	\$477
2009 Sky	\$173	\$429

493. If New GM had timely disclosed the many defects as required by the TREAD Act, and the Arizona Consumer Fraud Act as detailed below, Arizona consumers' GM-branded vehicles would be considerably more valuable than they are now and/or Arizona consumers would have paid less than they did. Because of New GM's now highly publicized campaign of deception, and its belated, piecemeal and ever-expanding recalls, so much stigma has attached to

the New GM brand that no rational consumer would pay what otherwise would have been fair market value for their GM-branded vehicles purchased on or after July 11, 2009.

IV. CLAIM FOR RELIEF

ARIZONA CONSUMER FRAUD ACT (A.R.S. § 44-1521, et seq.)

494. The State realleges and incorporates by reference all paragraphs as though fully set forth herein.

495. New GM is a “person” within the meaning of A.R.S. § 44-1521(6).

496. GM-branded vehicles sold or leased on or after July 11, 2009 are “merchandise” within the meaning of A.R.S. § 44-1521(5).

497. The Arizona Consumer Fraud Act provides that “[t]he act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.” A.R.S. § 44-1522(A).

498. In the course of its business, New GM systematically devalued safety and concealed a plethora of defects in GM-branded vehicles as described herein and otherwise engaged in activities with a tendency or capacity to deceive. New GM also engaged in unlawful practices by employing deception, deceptive or unfair acts or practices, fraud, false pretenses, false promises, misrepresentations, or concealment, suppression or omission of material facts with intent that others rely upon such concealment, suppression or omission, in connection with the sale and lease of GM-branded vehicles on or after July 11, 2009.

499. From the date of its inception on July 11, 2009, New GM knew of many serious defects affecting many models and years of GM-branded vehicles, both because of the

knowledge of Old GM personnel who remained at New GM, and continuous reports, investigations, and notifications from regulatory authorities. New GM became aware of other serious defects and systemic safety issues years ago, but concealed all of that information until recently.

500. New GM was also aware that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured and the failure to promptly disclose and remedy defects in all GM-branded vehicles. New GM concealed this information as well.

501. By failing to disclose and by actively concealing the many defects in GM-branded vehicles, by marketing its vehicles as safe, reliable, and of high quality, and by presenting itself as a reputable manufacturer that valued safety and stood behind its vehicles after they were sold, New GM engaged in deceptive and unlawful business practices in violation of the Arizona Consumer Fraud Act.

502. In the course of New GM's business, it willfully failed to disclose and actively concealed the dangerous risk posed by the many safety issues and serious defects discussed above. New GM compounded the deception by repeatedly asserting that its vehicles were safe, reliable, and of high quality, and by claiming to be a reputable manufacturer that valued safety and stood behind its vehicles once they are on the road.

503. New GM's unlawful, unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Arizona consumers, about the true safety and reliability of GM-branded vehicles, the quality of the New GM brand, the devaluing of safety at New GM, and the true value of GM-branded vehicles sold or leased on or after July 11, 2009.

504. New GM intentionally and knowingly misrepresented material facts regarding GM-branded vehicles with an intent to mislead Arizona consumers.

505. New GM knew or should have known that its conduct was of the nature prohibited by and violative of the Arizona Consumer Fraud Act.

506. As alleged above, New GM made material statements about the safety and reliability of GM-branded vehicles that were either false or misleading.

507. New GM owed purchasers of New GM vehicles a duty to disclose the true safety and reliability of GM-branded vehicles and the devaluing of safety at New GM, because
New GM:

- a. Possessed exclusive knowledge that it valued cost-cutting over safety, selected parts from the cheapest supplier regardless of quality, and actively discouraged employees from finding and flagging known safety defects, and that this approach would necessarily cause the existence of more defects in the vehicles it designed and manufactured;
- b. Intentionally concealed the foregoing from the public, including Arizona residents; and/or
- c. Made incomplete representations about the safety and reliability of GM-branded vehicles generally, and the ignition switch in particular, while purposefully withholding material facts from the public, including Arizona residents, that contradicted these representations.

508. Because New GM fraudulently concealed the many defects in GM-branded vehicles, resulting in a raft of negative publicity once the defects finally began to be disclosed, the value of GM-branded vehicles sold on or after July 11, 2009, has greatly diminished. In light of the stigma attached to those vehicles by New GM's conduct, they are now worth significantly less than they otherwise would be.

509. New GM's systemic devaluation of safety and its concealment of a plethora of defects in GM-branded vehicles were material to Arizona residents. A vehicle made by a

reputable manufacturer of safe vehicles is worth more than an otherwise comparable vehicle made by a disreputable manufacturer of unsafe vehicles that conceals defects rather than promptly remedies them.

510. New GM's violations present a continuing risk to owners of GM-branded vehicles, as well as to the general public. New GM's unlawful acts and practices complained of herein affect the public interest.

511. While engaging in the unlawful acts and practices alleged in this Complaint, New GM was at all times acting willfully as defined by A.R.S. § 44-1531.

PRAYER FOR RELIEF

WHEREFORE, the State respectfully requests the Court to enter Judgment against New GM as follows:

A. Enter an injunction against New GM permanently prohibiting it, and all others acting directly or indirectly on its behalf, from continuing and engaging in the unlawful acts and practices as alleged in this Complaint and from doing any acts in furtherance of such unlawful acts and practices, pursuant to A.R.S. § 44-1528(A)(1);

B. Order New GM to disgorge any profits, gains, gross receipts, or other benefit obtained by means of any unlawful act or practice as alleged in this Complaint, pursuant to A.R.S. § 44-1528(A)(3);

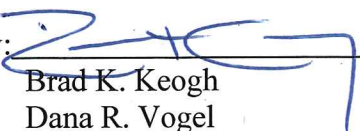
C. Order New GM to pay to the State a civil penalty of not more than \$10,000 for each willful violation of the Consumer Fraud Act, pursuant to A.R.S. § 44-1531;

D. Order New GM to pay the State its costs of investigation and prosecution of this matter, including its reasonable attorneys' fees, pursuant to A.R.S. § 44-1534; and

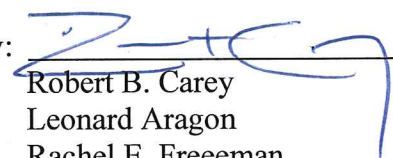
E. Award the State such further relief the Court deems just and proper under the circumstances.

DATED: Novemer 19, 2014

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EXHIBIT E

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By Irma Cook, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE – COMPLEX LITIGATION DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, acting by and through Orange County District Attorney Tony Rackauckas,

Plaintiff,

v.

GENERAL MOTORS LLC

Defendant.

Case No. 30-2014-00731038-CU-BT-CXC

FIRST AMENDED COMPLAINT FOR VIOLATIONS OF CALIFORNIA UNFAIR COMPETITION LAW AND FALSE ADVERTISING LAW

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PRAYER FOR RELIEF 57

1 Plaintiff, the People of the State of California (“Plaintiff” or “the People”), by and through
2 Tony Rackauckas, District Attorney for the County of Orange (“District Attorney”), alleges the
3 following, on information and belief:

4 **I. INTRODUCTION**

5 1. This is a law enforcement action which primarily seeks to protect the public safety
6 and welfare, brought by a governmental unit in the exercise of and to enforce its police power. *City*
7 *& Cnty. of San Francisco v. PG & E Corp.*, 433 F.3d 1115, 1124-1125 (9th Cir. 2006). The action
8 is brought by Tony Rackauckas, District Attorney of the County of Orange, under California
9 Business and Professions Code sections 17200 *et seq.*, the Unfair Competition Law (“UCL”), and
10 17500 *et seq.*, the False Advertising Law (“FAL”), and involves sales, leases, or other wrongful
11 conduct or injuries occurring in California. The defendant is General Motors LLC (“Defendant” or
12 “GM”), which is based in Detroit, Michigan.

13 2. This case arises from GM’s egregious failure to disclose, and the affirmative
14 concealment of, at least 35 separate known defects in vehicles sold by GM, and by its predecessor,
15 “Old GM” (collectively, “GM-branded vehicles”). By concealing the existence of the many known
16 defects plaguing many models and years of GM-branded vehicles and the fact that GM values cost-
17 cutting over safety, and concurrently marketing the GM brand as “safe” and “reliable,” GM enticed
18 vehicle purchasers to buy GM vehicles under false pretenses.

19 3. This action seeks to hold GM liable only for its *own* acts and omissions *after* the
20 July 10, 2009 effective date of the Sale Order and Purchase Agreement through which GM
21 acquired virtually all of the assets and certain liabilities of Old GM.

22 4. A vehicle made by a reputable manufacturer of safe and reliable vehicles is worth
23 more than an otherwise similar vehicle made by a disreputable manufacturer that is known to
24 devalue safety and to conceal serious defects from consumers and regulators. GM Vehicle Safety
25 Chief Jeff Boyer has recently stated that: “Nothing is more important than the safety of our
26 customers in the vehicles they drive.” Yet GM failed to live up to this commitment, instead
27 choosing to conceal at least 35 serious defects in over 17 million GM-branded vehicles sold in the
28 United States (collectively, the “Defective Vehicles”).

1 5. The systematic concealment of known defects was deliberate, as GM followed a
2 consistent pattern of endless “investigation” and delay each time it became aware of a given defect.
3 In fact, recently revealed documents show that GM valued cost-cutting over safety, trained its
4 personnel to *never* use the words “defect,” “stall,” or other words suggesting that any GM-branded
5 vehicles are defective, routinely chose the cheapest part supplier without regard to safety, and
6 discouraged employees from acting to address safety issues.

7 6. Under the Transportation Recall Enhancement, Accountability and Documentation
8 Act (“TREAD Act”)¹ and its accompanying regulations, when a manufacturer learns that a vehicle
9 contains a safety defect, the manufacturer must promptly disclose the defect.² If it is determined
10 that the vehicle is defective, the manufacturer may be required to notify vehicle owners,
11 purchasers, and dealers of the defect, and may be required to remedy the defect.³

12 7. GM *explicitly assumed* the responsibilities to report safety defects with respect to
13 all GM-branded vehicles as required by the TREAD Act. GM also had the same duty under
14 California law.

15 8. When a manufacturer with TREAD Act responsibilities is aware of myriad safety
16 defects and fails to disclose them as GM has done, that manufacturer’s vehicles are not safe. And
17 when that manufacturer markets and sells its new vehicles by touting that its vehicles are “safe,” as
18 GM has also done, that manufacturer is engaging in deception.

19 9. GM has recently been forced to disclose that it had been concealing a large number
20 of known safety defects in GM-branded vehicles ever since its inception in 2009, and that other
21 defects arose on its watch due in large measure to GM’s focus on cost-cutting over safety, its
22 discouragement of raising safety issues and its training of employees to avoid using language such
23 as “stalls,” “defect” or “safety issue” in order to avoid attracting the attention of regulators. As a
24 result, GM has been forced to recall over 17 million vehicles in some 40 recalls covering 35
25 separate defects during the first five and a half months of this year –20 times more than during the
26

27 ¹ 49 U.S.C. §§ 30101-30170.

28 ² 49 U.S.C. § 30118(c)(1) & (2).

³ 49 U.S.C. § 30118(b)(2)(A) & (B).

1 same period in 2013. The cumulative negative effect on the value of the vehicles sold by GM has
2 been both foreseeable and significant.

3 10. The highest-profile defect concealed by GM concerns the ignition switches in more
4 than 1.5 million vehicles sold by GM's predecessor (the "ignition switch defect"). The ignition
5 switch defect can cause the affected vehicles' ignition switches to inadvertently move from the
6 "run" position to the "accessory" or "off" position during ordinary driving conditions, resulting in a
7 loss of power, vehicle speed control, and braking, as well as a failure of the vehicle's airbags to
8 deploy. GM continued to use defective ignition switches in "repairs" of vehicles it sold after July
9 10, 2009.

10 11. For the past five years, GM received reports of crashes and injuries that put GM on
11 notice of the serious safety issues presented by its ignition switch system. GM was aware of the
12 ignition switch defects (and many other serious defects in numerous models of GM-branded
13 vehicles) ***from the very date of its inception on July 10, 2009.***

14 12. Yet, despite the dangerous nature of the ignition switch defects and the effects on
15 critical safety systems, GM concealed the existence of the defects and failed to remedy the problem
16 from the date of its inception until February of 2014. In February and March of 2014, GM issued
17 three recalls for a combined total of 2.19 million vehicles with the ignition switch defects.

18 13. On May 16, 2014, GM entered a Consent Order with NHTSA in which it admitted
19 that it violated the TREAD Act by not disclosing the ignition switch defect, and agreed to pay the
20 maximum available civil penalties for its violations.

21 14. Unfortunately for all owners of vehicles sold by GM, the ignition switch defect was
22 only one of a seemingly never-ending parade of recalls in the first half of 2014 – many concerning
23 safety defects that had been long known to GM.

24 15. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States
25 were sold with a safety defect that causes the vehicle's electric power steering ("EPS") to suddenly
26 fail during ordinary driving conditions and revert back to manual steering, requiring greater effort
27 by the driver to steer the vehicle and increasing the risk of collisions and injuries (the "power
28 steering defect").

1 16. As with the ignition switch defect, GM was aware of the power steering defect from
2 the date of its inception, and concealed the defect for years.

3 17. From 2007 until at least 2013, nearly 1.2 million GM-branded vehicles were sold in
4 the United States with defective wiring harnesses. Increased resistance in the wiring harnesses of
5 driver and passenger seat-mounted, side-impact air bag (“SIAB”) in the affected vehicles may
6 cause the SIABs, front center airbags, and seat belt pretensioners to not deploy in a crash (the
7 “airbag defect”). The vehicles’ failure to deploy airbags and pretensioners in a crash increases the
8 risk of injury and death to the drivers and front-seat passengers.

9 18. Once again, GM knew of the dangerous airbag defect from the date of its inception
10 on July 10, 2009, but chose instead to conceal the defect, and marketed its vehicles as “safe” and
11 “reliable.”

12 19. To take just one more example, between 2003 and 2012, 2.4 million GM-branded
13 vehicles in the United States were sold with a wiring harness defect that could cause brake lamps to
14 fail to illuminate when the brakes are applied or cause them to illuminate when the brakes are not
15 engaged (the “brake light defect”). The same defect could also disable traction control, electronic
16 stability control, and panic braking assist operations. Though GM received hundreds of complaints
17 and was aware of at least 13 crashes caused by this defect, it waited until May of 2014 before
18 finally ordering a full recall.

19 20. As further detailed in this First Amended Complaint, the ignition switch, power
20 steering, airbag, and brake light defects are just 4 of the 35 separate defects that resulted in 40
21 recalls of GM-branded vehicles in the first five and a half months of 2014, affecting over 17
22 million vehicles. Most or all of these recalls are for safety defects, and many of the defects were
23 apparently known to GM, but concealed for years.

24 21. This case arises from GM’s breach of its obligations and duties, including but not
25 limited to: (i) its concealment of, and failure to disclose that, as a result of a spate of safety defects,
26 over 17 million Defective Vehicles were on the road nationwide – and many hundreds of thousands
27 in California; (ii) its failure to disclose the defects despite its TREAD Act obligations; (iii) its
28 failure to disclose that it devalued safety and systemically encouraged the concealment of known

1 defects; (iv) its continued use of defective ignition switches as replacement parts; (v) its sale of
2 used “GM certified” vehicles that were actually plagued with a variety of known safety defects;
3 and (vi) its repeated and false statements that its vehicles were safe and reliable, and that it stood
4 behind its vehicles after they were purchased.

5 22. From its inception in 2009, GM has known that many defects exist in millions of
6 GM-branded vehicles sold in the United States. But, to protect its profits and to avoid remediation
7 costs and a public relations nightmare, GM concealed the defects and their sometimes tragic
8 consequences.

9 23. GM violated the TREAD Act by failing to timely inform NHTSA of the myriad
10 safety defects plaguing GM-branded vehicles and allowed the Defective Vehicles to remain on the
11 road. In addition to violating the TREAD Act, GM fraudulently concealed the defects from owners
12 and from purchasers of new and used vehicles sold after July 10, 2009, and even used defective
13 ignition switches as replacement parts. These same acts and omissions also violated California law
14 as detailed below.

15 24. GM’s failure to disclose the many defects, as well as advertising and promotion
16 concerning GM’s record of building “safe” cars of high quality, violated California law.

17 **II. PLAINTIFF’S AUTHORITY**

18 25. Tony Rackauckas, District Attorney of the County of Orange, acting to protect the
19 public as consumers from unlawful, unfair, and fraudulent business practices, brings this action in
20 the public interest in the name of the People of the State of California for violations of the Unfair
21 Competition Law pursuant to California Business and Professions Code Sections 17200, 17204 and
22 17206, and for violations of the False Advertising Law pursuant to California Business and
23 Professions Code Sections 17500, 17535 and 17536. Plaintiff, by this action, seeks to enjoin GM
24 from engaging in the unlawful, unfair, and fraudulent business practices alleged herein, and seeks
25 civil penalties for GM’s violations of the above statutes.
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III. DEFENDANT

26. Defendant General Motors LLC (“GM”) is a foreign limited liability company formed under the laws of Delaware with its principal place of business located at 300 Renaissance Center, Detroit, Michigan. GM was incorporated in 2009.

27. GM has significant contacts with Orange County, California, and the activities complained of herein occurred, in whole or in part, in Orange County, California.

28. At all times mentioned GM was engaged in the business of designing, manufacturing, distributing, marketing, selling, leasing, certifying, and warranting the GM cars that are the subject of this First Amended Complaint, throughout the State of California, including in Orange County, California.

IV. JURISDICTION AND VENUE

29. This Court has jurisdiction over this matter pursuant to the California Constitution, Article XI, section 10 and California Code of Civil Procedure (“CCP”) section 410.10 because GM transacted business and committed the acts complained of herein in California, specifically in the County of Orange. The violations of law alleged herein were committed in Orange County and elsewhere within the State of California.

30. Venue is proper in Orange County, California, pursuant to CCP section 395 and because many of the acts complained about occurred in Orange County.

V. FACTUAL BACKGROUND

A. There Are Serious Safety Defects in Millions of GM Vehicles Across Many Models and Years, and, Until Recently, GM Concealed them from Consumers.

31. In the first five and a half months of 2014, GM announced some 40 recalls affecting over 17 million GM-branded vehicles from model years 2003-2014. The recalls concern 35 separate defects. The numbers of recalls and serious safety defects are unprecedented, and can only lead to one conclusion: GM and its predecessor sold a large number of unsafe vehicle models with myriad defects during a long period of time.

32. Even more disturbingly, the available evidence shows a common pattern: From its inception in 2009, GM knew about an ever-growing list of serious safety defects in millions of

1 GM-branded vehicles, but concealed them from consumers and regulators in order to boost sales
2 and avoid the cost and publicity of recalls.

3 33. GM inherited from Old GM a company that valued cost-cutting over safety, actively
4 discouraged its personnel from taking a “hard line” on safety issues, avoided using “hot” words
5 like “stall” that might attract the attention of NHTSA and suggest that a recall was required, and
6 trained its employees to avoid the use of words such as “defect” that might flag the existence of a
7 safety issue. GM did nothing to change these practices.

8 34. The Center for Auto Safety recently stated that it has identified 2,004 death and
9 injury reports filed by GM with federal regulators in connection with vehicles that have recently
10 been recalled.⁴ Many of these deaths and injuries would have been avoided had GM complied with
11 its TREAD Act obligations over the past five years.

12 35. The many defects concealed by GM affected key safety systems in GM vehicles,
13 including the ignition, power steering, airbags, brake lights, gear shift systems, and seatbelts.

14 36. The available evidence shows a consistent pattern: GM learned about a particular
15 defect and, often at the prodding of regulatory authorities, “investigated” the defect and decided
16 upon a “root cause.” GM then took minimal action – such as issuing a carefully-worded
17 “Technical Service Bulletin” to its dealers, or even recalling a very small number of affected
18 vehicles. All the while, the true nature and scope of the defects were kept under wraps, vehicles
19 affected by the defects remained on the road, and GM enticed consumers to purchase its vehicles
20 by touting the safety, quality, and reliability of its vehicles, and presenting itself as a manufacturer
21 that stands behind its products.

22 37. The nine defects affecting the greatest number of vehicles are discussed in some
23 detail below, and the remainder are summarized thereafter.

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28 ⁴ See *Thousands of Accident Reports Filed Involving Recalled GM Cars: Report*, Irvin Jackson
(June 3, 2014).

1 **1. The ignition switch defects.**

2 38. The ignition switch defects can cause the vehicle’s engine and electrical systems to
3 shut off, disabling the power steering and power brakes and causing non-deployment of the
4 vehicle’s airbag and the failure of the vehicle’s seatbelt pretensioners in the event of a crash.

5 39. The ignition switch systems at issue are defective in at least three major respects.
6 The first is that the switches are simply weak; because of a faulty “detent plunger,” the switch can
7 inadvertently move from the “run” to the “accessory” or “off” position.

8 40. The second defect is that, due to the low position of the ignition switch, the driver’s
9 knee can easily bump the key (or the hanging fob below the key), and cause the switch to
10 inadvertently move from the “run” to the “accessory” or “off” position.

11 41. The third defect is that the airbags immediately become inoperable whenever the
12 ignition switch moves from the “run” to the “accessory” position. As NHTSA’s Acting
13 Administrator, David Friedman, recently testified before Congress, NHTSA is not convinced that
14 the non-deployment of the airbags in the recalled vehicles is solely attributable to a mechanical
15 defect involving the ignition switch:

16 And it may be even more complicated than that, actually. And that’s
17 one of the questions that we actually have in our timeliness query to
18 General Motors. It is possible that it’s not simply that the – the
19 power was off, but a much more complicated situation where the
20 very specific action of moving from on to the accessory mode is what
21 didn’t turn off the power, but may have disabled the algorithm.

22 That, to me, frankly, doesn’t make sense. From my perspective, if a
23 vehicle – certainly if a vehicle is moving, the airbag’s algorithm
24 should require those airbags to deploy. Even if the – even if the
25 vehicle is stopped and you turn from ‘on’ to ‘accessory,’ I believe
26 that the airbags should be able to deploy.

27 So this is exactly why we’re asking General Motors this question, to
28 understand is it truly a power issue or is there something embedded
in their [software] algorithm that is causing this, something that
should have been there in their algorithm.⁵

⁵ Congressional Transcript, Testimony of David Friedman, Acting Administrator of NHTSA (Apr. 2, 2014), at 19.

1 42. Vehicles with defective ignition switches are, therefore, unreasonably prone to be
2 involved in accidents, and those accidents are unreasonably likely to result in serious bodily harm
3 or death to the drivers and passengers of the vehicles.

4 43. Alarminglly, GM knew of the deadly ignition switch defects and at least some of
5 their dangerous consequences from the date of its inception on July 10, 2009, but concealed its
6 knowledge from consumers and regulators.

7 44. In part, GM’s knowledge of the ignition switch defects arises from the fact that key
8 personnel with knowledge of the defects remained in their same positions once GM took over from
9 Old GM.

10 45. For example, the Old GM Design Research Engineer who was responsible for the
11 rollout of the defective ignition switch in 2003 was Ray DeGiorgio. Mr. DeGiorgio continued to
12 serve as an engineer at GM until April 2014 when he was suspended as a result of his involvement in
13 the defective ignition switch problem. Later in 2014, in the wake of the GM Report,⁶ Mr. DeGiorgio
14 was fired.

15 46. In 2001, two years *before* vehicles with the defective ignition switches were ever
16 available to consumers, Old GM privately acknowledged in an internal pre-production report for
17 the model/year (“MY”) 2003 Saturn Ion that there were problems with the ignition switch.⁷ Old
18 GM’s own engineers had personally experienced problems with the ignition switch. In a section of
19 the internal report titled “Root Cause Summary,” Old GM engineers identified “two causes of
20 failure,” namely: “[l]ow contact force and low detent plunger force.”⁸ The report also stated that
21 the GM person responsible for the issue was Ray DeGiorgio.⁹

22 47. Mr. DeGiorgio actively concealed the defect, both while working for Old GM *and*
23 while working for GM.

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25
26 ⁶ References to the “GM Report” are to the “*Report to Board of Directors of General Motors
Company Regarding Ignition Switch Recalls*,” Anton R. Valukas, Jenner & Block (May 29, 2014).

27 ⁷ GM Report/Complaint re “Electrical Concern” opened July 31, 2001, GMHEC000001980-90.

28 ⁸ *Id.* at GMHEC000001986.

⁹ *Id.* at GMHEC000001981, 1986.

1 48. Similarly, Gary Altman was Old GM’s program-engineering manager for the
2 Cobalt, which is one of the models with the defective ignition switches and hit the market in MY
3 2005. He remained as an engineer at GM until he was suspended on April 10, 2014, by GM for his
4 role in the ignition switch problem and then fired in the wake of the GM Report.

5 49. On October 29, 2004, Mr. Altman test-drove a Cobalt. While he was driving, his
6 knee bumped the key and the vehicle shut down.

7 50. In response to the Altman incident, Old GM opened an engineering inquiry, known
8 as a “Problem Resolution Tracking System inquiry” (“PRTS”), to investigate the issue. According
9 to the chronology provided to NHTSA by GM in March 2014, engineers pinpointed the problem
10 and were “able to replicate this phenomenon during test drives.”

11 51. The PRTS concluded in 2005 that:

12 There are two main reasons that we believe can cause a lower effort
13 in turning the key:

- 14 1. A low torque detent in the ignition switch and
- 15 2. A low position of the lock module in the column.¹⁰

16 52. The 2005 PRTS further demonstrates the knowledge of Ray DeGiorgio (who, like
17 Mr. Altman, worked for Old GM and continued until very recently working for GM), as the
18 PRTS’s author states that “[a]fter talking to Ray DeGiorgio, I found out that it is close to
19 impossible to modify the present ignition switch. The switch itself is very fragile and doing any
20 further changes will lead to mechanical and/or electrical problems.”¹¹

21 53. Gary Altman, program engineering manager for the 2005 Cobalt, recently admitted
22 that Old GM engineering managers (including himself and Mr. DeGiorgio) knew about ignition
23 switch problems in the vehicle that could disable power steering, power brakes, and airbags, but
24 launched the vehicle anyway because they believed that the vehicles could be safely coasted off the
25 road after a stall. Mr. Altman insisted that “the [Cobalt] was maneuverable and controllable” with
26 the power steering and power brakes inoperable.

27 _____
¹⁰ Feb. 1, 2005 PRTS at GMHEC000001733.

28 ¹¹ *Id.*

1 54. Incredibly, GM now claims that it and Old GM did not view vehicle stalling and the
2 loss of power steering as a “safety issue,” but only as a “customer convenience” issue.¹² GM bases
3 this claim on the equally incredible assertion that, at least for some period of time, it was not aware
4 that when the ignition switch moves to the “accessory” position, the airbags become inoperable –
5 even though Old GM itself designed the airbags to not deploy under that circumstance.¹³

6 55. Even crediting GM’s claim that some at the Company were unaware of the rather
7 obvious connection between the defective ignition switches and airbag non-deployment, a stall and
8 loss of power steering and power brakes is a serious safety issue under any objective view. GM
9 *itself* recognized in 2010 that a loss of power steering *standing alone* was grounds for a safety
10 recall, as it did a recall on such grounds.

11 56. In fact, as multiple GM employees confirm, GM *intentionally* avoids using the
12 word “stall” “because such language might draw the attention of NHTSA” and “may raise a
13 concern about safety, which suggests GM should recall the vehicle....”¹⁴

14 57. Rather than publicly admitting the dangerous safety defects in the vehicles with the
15 defective ignition switches, GM attempted to attribute these and other incidents to “driver error.”
16 GM continued to receive reports of deaths in Cobalts involving steering and/or airbag failures from
17 its inception up through at least 2012.

18 58. In April 2006, the GM design engineer who was responsible for the ignition switch
19 in the recalled vehicles, Design Research Engineer Ray DeGiorgio, authorized part supplier Delphi
20 to implement changes to fix the ignition switch defect.¹⁵ The design change “was implemented to
21 increase torque performance in the switch.”¹⁶ However, testing showed that, even with the
22 proposed change, the performance of the ignition switch was *still* below original specifications.¹⁷

24 ¹² GM Report at 2.

25 ¹³ *Id.*

26 ¹⁴ GM Report at 92-93.

27 ¹⁵ General Motors Commodity Validation Sign-Off (Apr. 26, 2006), GMHEC000003201. *See also* GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

28 ¹⁶ *Id.*

¹⁷ Delphi Briefing, Mar. 27, 2014.

1 59. Modified ignition switches – with greater torque – started to be installed in 2007
2 model/year vehicles.¹⁸ In what a high-level engineer at Old GM now calls a “cardinal sin” and “an
3 extraordinary violation of internal processes,” Old GM changed the part design ***but kept the old***
4 ***part number***.¹⁹ That makes it impossible to determine from the part number alone which GM
5 vehicles produced after 2007 contain the defective ignition switches.

6 60. At a May 15, 2009 meeting, Old GM engineers (soon to be GM engineers) learned
7 that data in the black boxes of Chevrolet Cobalts showed that the dangerous ignition switch defects
8 existed in hundreds of thousands of Defective Vehicles. But still GM did not reveal the defect to
9 NHTSA, Plaintiff, or consumers.

10 61. After the May 15, 2009 meeting, GM continued to get complaints of unintended
11 shut down and continued to investigate frontal crashes in which the airbags did not deploy.

12 62. After the May 15, 2009 meeting, GM told the families of accident victims related to
13 the ignition switch defects that it did not have sufficient evidence to conclude that there was any
14 defect. In one case involving the ignition switch defects, GM threatened to sue the family of an
15 accident victim for reimbursement of its legal fees if the family did not dismiss its lawsuit. In
16 another, GM sent the victim’s family a terse letter, saying there was no basis for any claims against
17 GM. These statements were part of GM’s campaign of deception.

18 63. In July 2011, GM legal staff and engineers met regarding an investigation of crashes
19 in which the air bags did not deploy. The next month, in August 2011, GM initiated a Field
20 Performance Evaluation (“FPE”) to analyze multiple frontal impact crashes involving MY 2005-
21 2007 Chevrolet Cobalt vehicles and 2007 Pontiac G5 vehicles, as well as a review of information
22 related to the Ion, HHR, and Solstice vehicles, and airbag non-deployment.²⁰

23 64. GM continued to conceal and deny what it privately knew – that the ignition
24 switches were defective. For example, in May 2012, GM engineers tested the torque of the
25

26 ¹⁸ GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

27 ¹⁹ “‘Cardinal sin’: Former GM engineers say quiet ‘06 redesign of faulty ignition switch was a
28 major violation of protocol.” *Automotive News* (Mar. 26, 2014).

²⁰ GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 2.

1 ignition switches in numerous Old GM vehicles.²¹ The results from the GM testing showed that
2 the majority of the vehicles tested from the 2003 to 2007 model/years had torque performance at or
3 below 10 Newton centimeters (“Ncm”), which was below the original design specifications
4 required by GM.²² Around the same time, high ranking GM personnel continued to internally
5 review the history of the ignition switch issue.²³

6 65. In September 2012, GM had a GM Red X Team Engineer (a special engineer
7 assigned to find the root cause of an engineering design defect) examine the changes between the
8 2007 and 2008 Chevrolet Cobalt models following reported crashes where the airbags failed to
9 deploy and the ignition switch was found in the “off” or “accessory” position.²⁴

10 66. The next month, in October of 2012, Design Research Engineer Ray DeGiorgio (the
11 lead engineer on the defective ignition switch) sent an email to Brian Stouffer of GM regarding the
12 “2005-7 Cobalt and Ignition Switch Effort,” stating: “If we replaced switches on ALL the model
13 years, i.e., 2005, 2006, 2007 the piece price would be about \$10.00 per switch.”²⁵

14 67. The October 2012 email makes clear that GM considered implementing a recall to
15 fix the defective ignition switches in the Chevy Cobalt vehicles, but declined to do so in order to
16 save money.

17 68. In April 2013, GM again *internally* acknowledged that it understood that there was
18 a difference in the torque performance between the ignition switch parts in later model Chevrolet
19 Cobalt vehicles compared with the 2003-2007 model/year vehicles.²⁶

20 69. Notwithstanding what GM actually knew and privately acknowledged,²⁷ its public
21 statements and position in litigation was radically different. For example, in May 2013, Brian
22 Stouffer testified in deposition in a personal injury action (*Melton v. General Motors*) that the Ncm

23 ²¹ GMHEC000221427; *see also* Mar. 11, 2014 Ltr. to NHTSA, attached chronology.

24 ²² *Id.*

25 ²³ GMHEC000221438.

26 ²⁴ Email from GM Field Performance Assessment Engineer to GM Red X Team Engineer
(Sept. 6, 2012, 1:29:14 p.m., GMHEC000136204).

27 ²⁵ GMHEC000221539.

28 ²⁶ GM Mar. 11, 2014 Ltr. to NHTSA, attached chronology at 4.

²⁷ *See* GMHEC000221427.

1 performance (a measurement of the strength of the ignition switch) was *not* substantially different
2 as between the early (*e.g.*, 2005) and later model year (*e.g.*, 2008) Chevrolet Cobalt vehicles.²⁸

3 70. Similarly, a month before Mr. Stouffer's testimony, in April 2013, GM engineer
4 Ray DeGiorgio denied the existence of any type of ignition switch defect:

5 Q: Did you look at, as a potential failure mode for this switch, the
6 ease of which the key could be moved from run to accessory?

7 ...

8 THE WITNESS: No, because in our minds, moving the key from, I
9 want to say, *run to accessory is not a failure mode, it is an expected*
10 *condition*. It is important for the customer to be able to rotate the
11 key fore and aft, so as long as we meet those requirements, *it's not*
12 *deemed as a risk*.

13 Q: Well, it's not expected to move from run to accessory when
14 you're driving down the road at 55 miles an hour, is it?

15 ...

16 THE WITNESS: *It is expected for the key to be easily and*
17 *smoothly transitioned from one state to the other* without binding
18 and without harsh actuations.

19 Q: And why do you have a minimum torque requirement from run to
20 accessory?

21 ...

22 THE WITNESS: It's a design feature that is required. You don't
23 want anything flopping around. You want to be able to control the
24 dimensions and basically provide – one of the requirements in this
25 document talks about having a smooth transition from detent to
26 detent. One of the criticisms – I shouldn't say criticisms. One of the
27 customer complaints we have had in the – and previous to this was
28 he had cheap feeling switches, they were cheap feeling, they were
higher effort, and the intent of this design was to provide a smooth
actuation, provide a high feeling of a robust design. That was the
intent.

Q: I assume the intent was also to make sure that when people were
using the vehicle under ordinary driving conditions, that if the key
was in the run position, it wouldn't just move to the accessory
position, correct?

...

²⁸ GMHEC000146933. That said, “[t]he modified switches used in 2007-2011 vehicles were also approved by GM despite not meeting company specifications.” Mar. 31, 2014 Ltr. to Mary Barra from H. Waxman, D. DeGette, and J. Schankowsky.

1 A: That is correct, but also – it was not intended – *the intent was to*
2 *make the transition to go from run to off with relative ease.*²⁹

3 71. Brian Stouffer, in an email to Delphi regarding the ignition switch in the Chevy
4 Cobalt, acknowledged that the ignition switch in early Cobalt vehicles – although bearing the same
5 part number – was different than the ignition switch in later Cobalt vehicles.³⁰ Mr. Stouffer
6 claimed that “[t]he discovery of the plunger and spring change was made aware to GM during a
7 [sic] course of a lawsuit (*Melton v. GM*).”³¹ Delphi personnel responded that GM had authorized
8 the change back in 2006 but the part number had remained the same.³²

9 72. Eventually, the defect could no longer be ignored or swept under the rug.

10 73. After analysis by GM’s Field Performance Review Committee and the Executive
11 Field Action Decision Committee (“EFADC”), the EFADC finally ordered a recall of *some* of the
12 vehicles with defective ignition switches on January 31, 2014.

13 74. Initially, the EFADC ordered a recall of only the Chevrolet Cobalt and Pontiac G5
14 for model years 2005-2007.

15 75. After additional analysis, the EFADC expanded the recall on February 24, 2014, to
16 include the Chevrolet HHR and Pontiac Solstice for model years 2006 and 2007, the Saturn Ion for
17 model years 2003-2007, and the Saturn Sky for model year 2007.

18 76. Most recently, on March 28, 2014, GM expanded the recall a third time, to include
19 Chevrolet Cobalts, Pontiac G5s and Solstices, Saturn Ions and Skys from the 2008 through 2010
20 model years, and Chevrolet HHRs from the 2008 through 2011 model years.

21 77. All told, GM has recalled some 2.19 million vehicles in connection with the ignition
22 switch defect.

23 78. In a video message addressed to GM employees on March 17, 2014, CEO Mary
24 Barra admitted that the Company had made mistakes and needed to change its processes.

25
26 ²⁹ GMHEC000138906 (emphasis added).

27 ³⁰ GMHEC000003197.

28 ³¹ *Id.* See also GMHEC000003156-3180.

³² See GMHEC000003192-93.

1 79. According to Ms. Barra, “[s]omething went terribly wrong in our processes in this
2 instance, and terrible things happened.” Barra went on to promise, “[w]e will be better because of
3 this tragic situation if we seize this opportunity.”³³

4 80. Based on its egregious conduct in concealing the ignition switch defect, GM
5 recently agreed to pay the maximum possible civil penalty in a Consent Order with the National
6 Highway Traffic Safety Administration (“NHTSA”) and admitted that it had violated its legal
7 obligations to promptly disclose the existence of known safety defects.

8 **2. The power steering defect.**

9 81. Between 2003 and 2010, over 1.3 million GM-branded vehicles in the United States
10 were sold with a safety defect that causes the vehicle’s electric power steering (“EPS”) to suddenly
11 fail during ordinary driving conditions and revert back to manual steering, requiring greater effort
12 by the driver to steer the vehicle and increasing the risk of collisions and injuries.

13 82. As with the ignition switch defects, GM was aware of the power steering defect
14 long before it took anything approaching full remedial action.

15 83. When the power steering fails, a message appears on the vehicle’s dashboard, and a
16 chime sounds to inform the driver. Although steering control can be maintained through manual
17 steering, greater driver effort is required, and the risk of an accident is increased.

18 84. In 2010, GM first recalled Chevy Cobalt and Pontiac G5 models for these power
19 steering issues, yet it did *not* recall the many other vehicles that had the very same power steering
20 defect.

21 85. Documents released by NHTSA show that GM waited years to recall nearly
22 335,000 Saturn Ions for power steering failure – despite receiving nearly 4,800 consumer
23 complaints and more than 30,000 claims for warranty repairs. That translates to a complaint rate of
24 14.3 incidents per thousand vehicles and a warranty claim rate of 9.1 percent. By way of
25
26
27

28 ³³ “*Something Went ‘Very Wrong’ at G.M., Chief Says.*” N.Y. TIMES (Mar. 18, 2014).

1 comparison, NHTSA has described as “high” a complaint rate of 250 complaints per 100,000
2 vehicles.³⁴ Here, the rate translates to 1430 complaints per 100,000 vehicles.

3 86. In response to the consumer complaints, in September 2011 NHTSA opened an
4 investigation into the power steering defect in Saturn Ions.

5 87. NHTSA database records show complaints from Ion owners as early as June 2004,
6 with the first injury reported in May 2007.

7 88. NHTSA linked approximately 12 crashes and two injuries to the power steering
8 defect in the Ions.

9 89. In 2011, GM missed yet another opportunity to recall the additional vehicles with
10 faulty power steering when CEO Mary Barra – then head of product development – was advised by
11 engineer Terry Woychowski that there was a serious power steering issue in Saturn Ions.
12 Ms. Barra was also informed of the ongoing NHTSA investigation. At the time, NHTSA
13 reportedly came close to concluding that Saturn Ions should have been included in GM’s 2005
14 steering recall of Cobalt and G5 vehicles.

15 90. Yet GM took no action for four years. It wasn’t until March 31, 2014, that GM
16 finally recalled the approximately 1.3 million vehicles in the United States affected by the power
17 steering defect.

18 91. After announcing the March 31, 2014 recall, Jeff Boyer, GM’s Vice President of
19 Global Vehicle Safety, acknowledged that GM recalled some of these same vehicle models
20 previously for the *same issue*, but that GM “did not do enough.”

21 **3. Airbag defect.³⁵**

22 92. From 2007 until at least 2013, nearly 1.2 million GM-branded vehicles in the United
23 States were sold with defective wiring harnesses. Increased resistance in the wiring harnesses of
24 driver and passenger seat-mounted, side-impact air bag (“SIAB”) in the affected vehicles may
25 cause the SIABs, front center airbags, and seat belt pretensioners to not deploy in a crash. The

26 _____
27 ³⁴ See [http://www-odi.nhtsa.dot.gov/cars/problems/defect/-
results.cfm?action_number=EA06002&SearchType=QuickSearch&summary=true](http://www-odi.nhtsa.dot.gov/cars/problems/defect/-results.cfm?action_number=EA06002&SearchType=QuickSearch&summary=true).

28 ³⁵ This defect is distinct from the airbag component of the ignition switch defect discussed
above and from other airbag defects affecting a smaller number of vehicles, discussed below.

1 vehicles' failure to deploy airbags and pretensioners in a crash increases the risk of injury and
2 death to the drivers and front-seat passengers.

3 93. Once again, GM knew of the dangerous airbag defect long before it took anything
4 approaching the requisite remedial action.

5 94. As the wiring harness connectors in the SIABs corrode or loosen over time,
6 resistance will increase. The airbag sensing system will interpret this increase in resistance as a
7 fault, which then triggers illumination of the "SERVICE AIR BAG" message on the vehicle's
8 dashboard. This message may be intermittent at first and the airbags and pretensioners will still
9 deploy. But over time, the resistance can build to the point where the SIABs, pretensioners, and
10 front center airbags will not deploy in the event of a collision.³⁶

11 95. The problem apparently arose when GM made the switch from using gold-plated
12 terminals to connect its wire harnesses to cheaper tin terminals in 2007.

13 96. In June 2008, Old GM noticed increased warranty claims for airbag service on
14 certain of its vehicles and determined it was due to increased resistance in airbag wiring. After
15 analysis of the tin connectors in September 2008, Old GM determined that corrosion and wear to
16 the connectors was causing the increased resistance in the airbag wiring. It released a technical
17 service bulletin on November 25, 2008, for 2008-2009 Buick Enclaves, 2009 Chevy Traverse,
18 2008-2009 GMC Acadia, and 2008-2009 Saturn Outlook models, instructing dealers to repair the
19 defect by using Nyogel grease, securing the connectors, and adding slack to the line. Old GM also
20 began the transition back to gold-plated terminals in certain vehicles. At that point, Old GM
21 suspended all investigation into the defective airbag wiring and took no further action.³⁷

22 97. In November 2009, GM learned of similar reports of increased airbag service
23 messages in 2010 Chevy Malibu and 2010 Pontiac G6 vehicles. After investigation, GM
24 concluded that corrosion and wear in the same tin connector was the root of the airbag problems in
25 the Malibu and G6 models.³⁸

26
27 ³⁶ See GM Notice to NHTSA dated March 17, 2014, at 1.

28 ³⁷ See GM Notification Campaign No. 14V-118 dated March 31, 2014, at 1-2.

³⁸ See *id.*, at 2.

1 98. In January 2010, after review of the Malibu and G6 airbag connector issues, GM
2 concluded that ignoring the service airbag message could increase the resistance such that an SIAB
3 might not deploy in a side impact collision. On May 11, 2010, GM issued a Customer Satisfaction
4 Bulletin for the Malibu and G6 models and instructed dealers to secure both front seat-mounted,
5 side-impact airbag wire harnesses and, if necessary, reroute the wire harness.³⁹

6 99. From February to May 2010, GM revisited the data on vehicles with faulty harness
7 wiring issues, and noted another spike in the volume of the airbag service warranty claims. This
8 led GM to conclude that the November 2008 bulletin was “not entirely effective in correcting the
9 [wiring defect present in the vehicles].” On November 23, 2010, GM issued another Customer
10 Satisfaction Bulletin for certain 2008 Buick Enclave, 2008 Saturn Outlook, and 2008 GMC Acadia
11 models built from October 2007 to March 2008, instructing dealers to secure SIAB harnesses and
12 re-route or replace the SIAB connectors.⁴⁰

13 100. GM issued a revised Customer Service Bulletin on February 3, 2011, requiring
14 replacement of the front seat-mounted side-impact airbag connectors in the same faulty vehicles
15 mentioned in the November 2010 bulletin. In July 2011, GM again replaced its connector, this
16 time with a Tyco-manufactured connector featuring a silver-sealed terminal.⁴¹

17 101. But in 2012, GM noticed another spike in the volume of warranty claims relating to
18 SIAB connectors in vehicles built in the second half of 2011. After further analysis of the Tyco
19 connectors, it discovered that inadequate crimping of the connector terminal was causing increased
20 system resistance. In response, GM issued an internal bulletin for 2011-12 Buick Enclave, Chevy
21 Traverse, and GMC Acadia vehicles, recommending dealers repair affected vehicles by replacing
22 the original connector with a new sealed connector.⁴²

23 102. The defect was still uncured, however, because in 2013 GM again marked an
24 increase in service repairs and buyback activity due to illuminated airbag service lights. On
25

26 ³⁹ See *id.*

27 ⁴⁰ See *id.*, at 3.

28 ⁴¹ See *id.*

⁴² See *id.*, at 4.

1 October 4, 2013, GM opened an investigation into airbag connector issues in 2011-2013 Buick
2 Enclave, Chevy Traverse, and GMC Acadia models. The investigation revealed an increase in
3 warranty claims for vehicles built in late 2011 and early 2012.⁴³

4 103. On February 10, 2014, GM concluded that corrosion and crimping issues were again
5 the root cause of the airbag problems.⁴⁴

6 104. GM initially planned to issue a less-urgent Customer Satisfaction Program to
7 address the airbag flaw in the 2010-2013 vehicles. But it wasn't until a call with NHTSA on
8 March 14, 2014, that GM finally issued a full-blown safety recall on the vehicles with the faulty
9 harness wiring – years after it first learned of the defective airbag connectors, after four
10 investigations into the defect, and after issuing at least six service bulletins on the topic. The recall
11 as first approved covered only 912,000 vehicles, but on March 16, 2014, it was increased to cover
12 approximately 1.2 million vehicles.⁴⁵

13 105. On March 17, 2014, GM issued a recall for 1,176,407 vehicles potentially afflicted
14 with the defective airbag system. The recall instructs dealers to remove driver and passenger SIAB
15 connectors and splice and solder the wires together.⁴⁶

16 **4. The brake light defect.**

17 106. Between 2004 and 2012, approximately 2.4 million GM-branded vehicles in the
18 United States were sold with a safety defect that can cause brake lamps to fail to illuminate when
19 the brakes are applied or to illuminate when the brakes are not engaged; the same defect can
20 disable cruise control, traction control, electronic stability control, and panic brake assist operation,
21 thereby increasing the risk of collisions and injuries.⁴⁷

22 107. Once again, GM knew of the dangerous brake light defect for years before it took
23 anything approaching the requisite remedial action. In fact, although the brake light defect has
24

25 ⁴³ *See id.*

26 ⁴⁴ *See id.*, at 5.

27 ⁴⁵ *See id.*

28 ⁴⁶ *See id.*

⁴⁷ *See* GM Notification Campaign No. 14V-252 dated May 28, 2014, at 1.

1 caused at least 13 crashes since 2008, GM did not recall all 2.4 million vehicles with the defect
2 until May 2014.

3 108. The vehicles with the brake light defect include the 2004-2012 Chevrolet Malibu,
4 the 2004-2007 Malibu Maxx, the 2005-2010 Pontiac G6, and the 2007-2010 Saturn Aura.⁴⁸

5 109. According to GM, the brake defect originates in the Body Control Module (BCM)
6 connection system. “Increased resistance can develop in the [BCM] connection system and result
7 in voltage fluctuations or intermittency in the Brake Apply Sensor (BAS) circuit that can cause
8 service brakes lamp malfunction.”⁴⁹ The result is brake lamps that may illuminate when the brakes
9 are not being applied and may not illuminate when the brakes are being applied. ⁵⁰

10 110. The same defect can also cause the vehicle to get stuck in cruise control if it is
11 engaged, or cause cruise control to not engage, and may also disable the traction control, electronic
12 stability control, and panic-braking assist features.⁵¹

13 111. GM now acknowledges that the brake light defect “may increase the risk of a
14 crash.”⁵²

15 112. As early as September 2008, NHTSA opened an investigation for model year 2005-
16 2007 Pontiac G6 vehicles involving allegations that the brake lights may turn on when the driver
17 had not depressed the brake pedal and may turn on when the brake pedal was depressed.⁵³

18 113. During its investigation of the brake light defect in 2008, Old GM found elevated
19 warranty claims for the brake light defect for MY 2005 and 2006 vehicles built in January 2005,
20 and found “fretting corrosion in the BCM C2 connector was the root cause” of the problem.⁵⁴ Old
21 GM and its part supplier Delphi decided that applying dielectric grease to the BCM C2 connector
22
23

24 ⁴⁸ *Id.*

25 ⁴⁹ *Id.*

26 ⁵⁰ *Id.*

27 ⁵¹ *Id.*

28 ⁵² *Id.*

⁵³ *Id.* at 2.

⁵⁴ *Id.*

1 would be “an effective countermeasure to the fretting corrosion.”⁵⁵ Beginning in November of
2 2008, the company began applying dielectric grease in its vehicle assembly plants.⁵⁶

3 114. On December 4, 2008, Old GM issued a TSB recommending the application of
4 dielectric grease to the BCM C2 connector for the MY 2005-2009, Pontiac G6, 2004-2007
5 Chevrolet Malibu/Malibu Maxx and 2008 Malibu Classic and 2007-2009 Saturn Aura vehicles.⁵⁷
6 One month later, in January 2009, Old GM recalled only a small subset of the vehicles with the
7 brake light defect – 8,000 MY 2005-2006 Pontiac G6 vehicles built during the month of January,
8 2005.⁵⁸

9 115. Not surprisingly, the brake light problem was far from resolved.

10 116. In October 2010, GM released an updated TSB regarding “intermittent brake lamp
11 malfunctions,” and added MY 2008-2009 Chevrolet Malibu/Malibu Maxx vehicles to the list of
12 vehicles for which it recommended the application of dielectric grease to the BCM C2 connector.⁵⁹

13 117. In September of 2011, GM received an information request from Canadian
14 authorities regarding brake light defect complaints in vehicles that had not yet been recalled. Then,
15 in June 2012, NHTSA provided GM with additional complaints “that were outside of the build
16 dates for the brake lamp malfunctions on the Pontiac G6” vehicles that had been recalled.⁶⁰

17 118. In February of 2013, NHTSA opened a “Recall Query” in the face of 324
18 complaints “that the brake lights do not operate properly” in Pontiac G6, Malibu and Aura vehicles
19 that had not yet been recalled.⁶¹

20 119. In response, GM asserts that it “investigated these occurrences looking for root
21 causes that could be additional contributors to the previously identified fretting corrosion,” but that
22
23

24 ⁵⁵ *Id.*

25 ⁵⁶ *Id.* at 3.

26 ⁵⁷ *Id.* at 2.

27 ⁵⁸ *Id.*

28 ⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 3.

1 it continued to believe that “fretting corrosion in the BCM C2 connector” was the “root cause” of
2 the brake light defect.⁶²

3 120. In June of 2013, NHTSA upgraded its “Recall Query” concerning brake light
4 problems to an “Engineering Analysis.”⁶³

5 121. In August 2013, GM found an elevated warranty rate for BCM C2 connectors in
6 vehicles built *after* Old GM had begun applying dielectric grease to BCM C2 connectors at its
7 assembly plants in November of 2008.⁶⁴ In November of 2013, GM concluded that “the amount of
8 dielectric grease applied in the assembly plant starting November 2008 was insufficient....”⁶⁵

9 122. Finally, in March of 2014, “GM engineering teams began conducting analysis and
10 physical testing to measure the effectiveness of potential countermeasures to address fretting
11 corrosion. As a result, GM determined that additional remedies were needed to address fretting
12 corrosion.”⁶⁶

13 123. On May 7, 2014, GM’s Executive Field Action Decision Committee finally decided
14 to conduct a safety recall.

15 124. According to GM, “Dealers are to attach the wiring harness to the BCM with a
16 spacer, apply dielectric lubricant to both the BCM CR and harness connector, and on the BAS and
17 harness connector, and relearn the brake pedal home position.”⁶⁷

18 125. Once again, GM sat on and concealed its knowledge of the brake light defect, and
19 did not even consider available countermeasures (other than the application of grease that had
20 proven ineffective) until March of this year.

21 **5. Shift cable defect**

22 126. From 2004 through 2010, more than 1.1 million GM-branded vehicles were sold
23 throughout the United States with a dangerously defective transmission shift cable. The shift cable

24 _____
25 ⁶² *Id.*

26 ⁶³ *Id.*

27 ⁶⁴ *Id.*

28 ⁶⁵ *Id.*

⁶⁶ *Id.* at 4.

⁶⁷ *Id.*

1 may fracture at any time, preventing the driver from switching gears or placing the transmission in
2 the “park” position. According to GM, “[i]f the driver cannot place the vehicle in park, and exits
3 the vehicle without applying the park brake, the vehicle could roll away and a crash could occur
4 without prior warning.”⁶⁸

5 127. Yet again, GM knew of the shift cable defect long before it issued the recent recall
6 of more than 1.1 million vehicles with the defect.

7 128. In May of 2011, NHTSA informed GM that it had opened an investigation into
8 failed transmission cables in 2007 model year Saturn Aura vehicles. In response, GM noted “a
9 cable failure model in which a tear to the conduit jacket could allow moisture to corrode the
10 interior steel wires, resulting in degradation of shift cable performance, and eventually, a possible
11 shift cable failure.”⁶⁹

12 129. Upon reviewing these findings, GM’s Executive Field Action Committee conducted
13 a “special coverage field action for the 2007-2008 MY Saturn Aura vehicles equipped with 4 speed
14 transmissions and built with Leggett & Platt cables.” GM apparently chose that cut-off date
15 because, on November 1, 2007, Kongsberg Automotive replaced Leggett & Platt as the cable
16 provider.⁷⁰

17 130. GM did not recall any of the vehicles with the shift cable defect at this time, and
18 limited its “special coverage field action” to the 2007-2008 Aura vehicles even though “the same
19 or similar Leggett & Platt cables were used on ... Pontiac G6 and Chevrolet Malibu (MMX380)
20 vehicles.”

21 131. In March 2012, NHTSA sent GM an Engineering Assessment request to investigate
22 transmission shift cable failures in 2007-2008 MY Auras, Pontiac G6s, and Chevrolet Malibus.⁷¹

23 132. In responding to the Engineering Assessment request, GM for the first time “noticed
24 elevated warranty rates in vehicles built with Kongsberg shift cables.” Similar to their predecessor
25

26 ⁶⁸ See GM letter to NHTSA Re: NHTSA Campaign No. 14V-224 dated May 22, 2014, at 1.

27 ⁶⁹ *Id.* at 2.

28 ⁷⁰ *Id.*

⁷¹ *Id.*

1 vehicles built with Leggett & Platt shift cables, in the vehicles built with Kongsberg shift cables
2 “the tabs on the transmission shift cable end may fracture and separate without warning, resulting
3 in failure of the transmission shift cable and possible unintended vehicle movement.”⁷²

4 133. Finally, on September 13, 2012, the Executive Field Action Decision Committee
5 decided to conduct a safety recall. This initial recall was limited to 2008-2010 MY Saturn Aura,
6 Pontiac G6, and Chevrolet Malibu vehicles with 4-speed transmission built with Kongsberg shifter
7 cables, as well as 2007-2008 MY Saturn Aura and 2005-2007 MY Pontiac G6 vehicles with 4-
8 speed transmissions which may have been serviced with Kongsberg shift cables.⁷³

9 134. But the shift cable problem was far from resolved.

10 135. In March of 2013, NHTSA sent GM a second Engineering Assessment concerning
11 allegations of failure of the transmission shift cables on all 2007-2008 MY Saturn Aura, Chevrolet
12 Malibu, and Pontiac G6 vehicles.⁷⁴

13 136. GM continued its standard process of “investigation” and delay. But by May 9,
14 2014, GM was forced to concede that “the same cable failure mode found with the Saturn Aura 4-
15 speed transmission” was present in a wide population of vehicles.⁷⁵

16 137. Finally, on May 19, 2014, GM’s Executive Field Actions Decision Committee
17 decided to conduct a safety recall of more than 1.1 million vehicles with the defective shift cable
18 issue, including the following models and years (as of May 23, 2014): MY 2007-2008 Chevrolet
19 Saturn; MY 2004-2008 Chevrolet Malibu; MY 2004-2007 Chevrolet Malibu Maxx; and MY 2005-
20 2008 Pontiac G6.

21 **6. Safety belt defect.**

22 138. Between the years 2008-2014, more than 1.4 million GM-branded vehicles were
23 sold with a dangerous safety belt defect. According to GM, “[t]he flexible steel cable that connects
24 the safety belt to the vehicle at the outside of the front outside of the front outboard seating
25

26 ⁷² *Id.*

27 ⁷³ *Id.*

28 ⁷⁴ *Id.*

⁷⁵ *Id.*

1 positions can fatigue and separate over time as a result of occupant movement into the seat. In a
2 crash, a separated cable could increase the risk of injury to the occupant.”⁷⁶

3 139. On information and belief, GM knew of the safety belt defect long before it issued
4 the recent recall of more than 1.3 million vehicles with the defect.

5 140. While GM has yet to submit its full chronology of events to NHTSA, suffice to say
6 that GM has waited some five years before disclosing this defect. This delay is consistent with
7 GM’s long period of concealment of the other defects as set forth above.

8 141. On May 19, 2014, GM’s Executive Field Action Decision Committee decided to
9 conduct a recall of the following models and years in connection with the safety belt defect: MY
10 2009-2014 Buick Enclave; MY 2009-2014 Chevrolet Traverse; MY 2009-2014 GMC Acadia; and
11 MY 2009-2010 Saturn Outlook.

12 **7. Ignition lock cylinder defect.**

13 142. On April 9, 2014, GM recalled 2,191,014 GM-branded vehicles to address faulty
14 ignition lock cylinders.⁷⁷ Though the vehicles are the same as those affected by the ignition switch
15 defect,⁷⁸ the lock cylinder defect is distinct.

16 143. In these vehicles, faulty ignition lock cylinders can allow removal of the ignition
17 key while the engine is not in the “Off” position. If the ignition key is removed when the ignition
18 is not in the “Off” position, unintended vehicle motion may occur. That could cause a vehicle
19 crash and injury to the vehicle’s occupants or pedestrians. As a result, some of the vehicles with
20 faulty ignition lock cylinders may fail to conform to Federal Motor Vehicle Safety Standard
21 number 114, “*Theft Prevention and Rollaway Prevention*.”⁷⁹

22 144. On information and belief, GM was aware of the ignition lock cylinder defect for
23 years before finally acting to remedy it.

24
25
26 ⁷⁶ See GM Notice to NHTSA dated May 19, 2014, at 1.

27 ⁷⁷ See GM Notice to NHTSA dated April 9, 2014.

28 ⁷⁸ Namely, MY 2005-2010 Chevrolet Cobalts, 2005-2011 Chevrolet HHRs, 2007-2010 Pontiac G5s, 2003-2007 Saturn Ions, and 2007-2010 Saturn Skys.

⁷⁹ GM Notice to NHTSA dated April 9, 2014, at 1.

1 **8. The Camaro key-design defect.**

2 145. On June 13, 2014, GM recalled more than 500,000 MY 2010-2014 Chevrolet
3 Camaros because a driver’s knee can bump the key fob out of the “run” position and cause the
4 vehicle to lose power. This issue that has led to at least three crashes. GM said it learned of the
5 issue which primarily affects drivers who sit close to the steering wheel, during internal testing it
6 conducted following its massive ignition switch recall earlier this year. GM knows of three crashes
7 that resulted in four minor injuries attributed to this defect.

8 **9. The ignition key defect.**

9 146. On June 16, 2014, GM announced a recall of 3.36 million cars due to a problem
10 with keys that can turn off ignitions and deactivate air bags, a problem similar to the ignition
11 switch defects in the 2.19 million cars recalled earlier in the year.

12 147. The company said that keys laden with extra weight – such as additional keys or
13 objects attached to a key ring – could inadvertently switch the vehicle’s engine off if the car struck
14 a pothole or crossed railroad tracks.

15 148. GM said it was aware of eight accidents and six injuries related to the defect.

16 149. As early as December 2000, drivers of the Chevrolet Impala and the other newly
17 recalled cars began lodging complaints about stalling with the National Highway Traffic Safety
18 Administration. “When foot is taken off accelerator, car will stall without warning,” one driver of
19 a 2000 Cadillac Deville told regulators in December 2000. “Complete electrical system and engine
20 shutdown while driving,” another driver of the same model said in January 2001. “Happened three
21 different times to date. Dealer is unable to determine cause of failure.”

22 150. The vehicles covered include the Buick Lacrosse, model years 2005-09; Chevrolet
23 Impala, 2006-14; Cadillac Deville, 2000-05; Cadillac DTS, 2004-11; Buick Lucerne, 2006-11;
24 Buick Regal LS and RS, 2004-05; and Chevrolet Monte Carlo, 2006-08.

25 **10. At least 26 other defects were revealed by GM in recalls during the first half of**
26 **2014.**

27 151. The nine defects discussed above – and the resultant 12 recalls – are but a subset of
28 the 40 recalls ordered by GM in connection with 35 separate defects during the first five and one-

1 half months of 2014. The additional 26 defects are briefly summarized in the following
2 paragraphs.

3 152. **Transmission oil cooler line defect:** On March 31, 2014, GM recalled 489,936
4 MY 2014 Chevy Silverado, 2014 GMC Sierra, 2014 GMC Yukon, 2014 GMC Yukon XL, 2015
5 Chevy Tahoe, and 2015 Chevy Suburban vehicles. These vehicles may have transmission oil
6 cooler lines that are not securely seated in the fitting. This can cause transmission oil to leak from
7 the fitting, where it can contact a hot surface and cause a vehicle fire.

8 153. **Power management mode software defect:** On January 13, 2014, GM recalled
9 324,970 MY 2014 Chevy Silverado and GMC Sierra Vehicles. When these vehicles are idling in
10 cold temperatures, the exhaust components can overheat, melt nearby plastic parts, and cause an
11 engine fire.

12 154. **Substandard front passenger airbags:** On March 17, 2014, GM recalled 303,013
13 MY 2009-2014 GMC Savana vehicles. In certain frontal impact collisions below the air bag
14 deployment threshold in these vehicles, the panel covering the airbag may not sufficiently absorb
15 the impact of the collision. These vehicles therefore do not meet the requirements of Federal
16 Motor Vehicle Safety Standard number 201, "Occupant Protection in Interior Impact."

17 155. **Light control module defect:** On May 16, 2014, GM recalled 218,214 MY 2004-
18 2008 Chevrolet Aveo (subcompact) and 2004-2008 Chevrolet Optra (subcompact) vehicles. In
19 these vehicles, heat generated within the light control module in the center console in the
20 instrument panel may melt the module and cause a vehicle fire.

21 156. **Front axle shaft defect:** On March 28, 2014, GM recalled 174,046 MY 2013-2014
22 Chevrolet Cruze vehicles. In these vehicles, the right front axle shaft may fracture and separate. If
23 this happens while the vehicle is being driven, the vehicle will lose power and coast to a halt. If a
24 vehicle with a fractured shaft is parked and the parking brake is not applied, the vehicle may move
25 unexpectedly which can lead to accident and injury.

26 157. **Brake boost defect:** On May 13, 2014, GM recalled 140,067 MY 2014 Chevrolet
27 Malibu vehicles. The "hydraulic boost assist" in these vehicles may be disabled; when that
28 happens, slowing or stopping the vehicle requires harder brake pedal force, and the vehicle will

1 travel a greater distance before stopping. Therefore, these vehicles do not comply with Federal
2 Motor Vehicle Safety Standard number 135, "Light Vehicle Brake Systems," and are at increased
3 risk of collision.

4 158. **Low beam headlight defect:** On May 14, 2014, GM recalled 103,158 MY 2005-
5 2007 Chevrolet Corvette vehicles. In these vehicles, the underhood bussed electrical center
6 (UBEC) housing can expand and cause the headlamp low beam relay control circuit wire to bend.
7 When the wire is repeatedly bent, it can fracture and cause a loss of low beam headlamp
8 illumination. The loss of illumination decreases the driver's visibility and the vehicle's conspicuity
9 to other motorists, increasing the risk of a crash.

10 159. **Vacuum line brake booster defect:** On March 17, 2014, GM recalled 63,903 MY
11 2013-2014 Cadillac XTS vehicles. In these vehicles, a cavity plug on the brake boost pump
12 connector may dislodge and allow corrosion of the brake booster pump relay connector. This can
13 have an adverse impact on the vehicle's brakes.

14 160. **Fuel gauge defect:** On April 29, 2014, GM recalled 51,460 MY 2014 Chevrolet
15 Traverse, GMC Acadia and Buick Enclave vehicles. In these vehicles, the engine control module
16 (ECM) software may cause inaccurate fuel gauge readings. An inaccurate fuel gauge may result in
17 the vehicle unexpectedly running out of fuel and stalling, and thereby increases the risk of accident.

18 161. **Acceleration defect:** On April 24, 2014, GM recalled 50,571 MY 2013 Cadillac
19 SRX vehicles. In these vehicles, there may be a three- to four-second lag in acceleration due to
20 faulty transmission control module programming. That lag may increase the risk of a crash.

21 162. **Flexible flat cable airbag defect:** On April 9, 2014, GM recalled 23,247 MY
22 2009-2010 Pontiac Vibe vehicles. These vehicles are susceptible to a failure in the Flexible Flat
23 Cable ("FFC") in the spiral cable assemble connecting the driver's airbag module. When the FFC
24 fails, connectivity to the driver's airbag module is lost and the airbag is deactivated. The resultant
25 failure of the driver's airbag to deploy increases the risk of injury to the driver in the event of a
26 crash.

1 163. **Windshield wiper defect:** On May 14, 2014, GM recalled 19,225 MY 2014
2 Cadillac CTS vehicles. A defect leaves the windshield wipers in these vehicles prone to failure.
3 Inoperative windshield wipers can decrease the driver’s visibility and increase the risk of a crash.

4 164. **Brake rotor defect:** On May 7, 2014, GM recalled 8,208 MY 2014 Chevrolet
5 Malibu and Buick LaCrosse vehicles. In these vehicles, GM may have accidentally installed rear
6 brake rotors on the front brakes. The rear rotors are thinner than the front rotors, and the use of
7 rear rotors in the front of the vehicle may result in a front brake pad detaching from the caliper.
8 The detachment of a break pad from the caliper can cause a sudden reduction in braking which
9 lengthens the distance required to stop the vehicle and increases the risk of a crash.

10 165. **Passenger-side airbag defect:** On May 16, 2014, GM recalled 1,402 MY 2015
11 Cadillac Escalade vehicles. In these vehicles, the airbag module is secured to a chute adhered to
12 the backside of the instrument panel with an insufficiently heated infrared weld. As a result, the
13 front passenger-side airbag may only partially deploy in the event of crash, and this will increase
14 the risk of occupant injury. These vehicles do not conform to Federal Motor Vehicle Safety
15 Standard number 208, “Occupant Crash Protection.”

16 166. **Electronic stability control defect:** On March 26, 2014, GM recalled 656 MY
17 2014 Cadillac ELR vehicles. In these vehicles, the electronic stability control (ESC) system
18 software may inhibit certain ESC diagnostics and fail to alert the driver that the ESC system is
19 partially or fully disabled. Therefore, these vehicles fail to conform to Federal Motor Vehicle
20 Safety Standard number 126, “Electronic Stability Control Systems.” A driver who is not alerted
21 to an ESC system malfunction may continue driving with a disabled ESC system. That may result
22 in the loss of directional control, greatly increasing the risk of a crash.

23 167. **Steering tie-rod defect:** On May 13, 2014, GM recalled 477 MY 2014 Chevrolet
24 Silverado, 2014 GMC Sierra and 2015 Chevrolet Tahoe vehicles. In these vehicles, the tie-rod
25 threaded attachment may not be properly tightened to the steering gear rack. An improperly
26 tightened tie-rod attachment may allow the tie-rod to separate from the steering rack and result in a
27 loss of steering that greatly increases the risk of a vehicle crash.

1 168. **Automatic transmission shift cable adjuster:** On February 20, 2014, GM recalled
2 352 MY 2014 Buick Enclave, Buick LaCrosse, Buick Regal, Verano, Chevrolet Cruze, Chevrolet
3 Impala, Chevrolet Malibu, Chevrolet Traverse, and GMC Acadia vehicles. In these vehicles, the
4 transmission shift cable adjuster may disengage from the transmission shift lever. When that
5 happens, the driver may be unable to shift gears, and the indicated gear position may not be
6 accurate. If the adjuster is disengaged when the driver attempts to stop and park the vehicle, the
7 driver may be able to shift the lever to the “PARK” position but the vehicle transmission may not
8 be in the “PARK” gear position. That creates the risk that the vehicle will roll away as the driver
9 and other occupants exit the vehicle, or anytime thereafter.

10 169. **Fuse block defect:** On May 19, 2014, GM recalled 58 MY 2015 Chevrolet
11 Silverado HD and GMC Sierra HD vehicles. In these vehicles, the retention clips that attach the
12 fuse block to the vehicle body can become loose allowing the fuse block to move out of position.
13 When this occurs, exposed conductors in the fuse block may contact the mounting studs or other
14 metallic components, which in turn causes a “short to ground” event. That can result in an
15 arcing condition, igniting nearby combustible materials and starting an engine compartment fire.

16 170. **Diesel transfer pump defect:** On April 24, 2014, GM recalled 51 MY 2014 GMC
17 Sierra HD and 2015 Chevrolet Silverado HD vehicles. In these vehicles, the fuel pump
18 connections on both sides of the diesel fuel transfer pump may not be properly torqued. That can
19 result in a diesel fuel leak, which can cause a vehicle fire.

20 171. **Base radio defect:** On June 5, 2014, GM recalled 57,512 MY 2014 Chevrolet
21 Silverado LD, 2014 GMC Sierra LD and model year 2015 Silverado HD, Tahoe and Suburban and
22 2015 GMC Sierra HD and Yukon and Yukon XL vehicles because the base radio may not work.
23 The faulty base radio prevents audible warnings if the key is in the ignition when the driver’s door
24 is open, and audible chimes when a front seat belt is not buckled. Vehicles with the base radio
25 defect are out of compliance with motor vehicle safety standards covering theft protection,
26 rollaway protection and occupant crash protection.

27 172. **Shorting bar defect:** On June 5, 2014, GM recalled 31,520 MY 2012 Buick
28 Verano and Chevrolet Camaro, Cruze, and Sonic compact cars for a defect in which the shorting

1 bar inside the dual stage driver's air bag may occasionally contact the air bag terminals. If contact
2 occurs, the air bag warning light will illuminate. If the car and terminals are contacting each other
3 in a crash, the air bag will not deploy. GM admits awareness of one crash with an injury where the
4 relevant diagnostic trouble code was found at the time the vehicle was repaired. GM is aware of
5 other crashes where air bags did not deploy but it does not know if they were related to this
6 condition. GM conducted two previous recalls for this condition involving 7,116 of these vehicles
7 with no confirmed crashes in which this issue was involved.

8 173. **Front passenger airbag end cap defect:** On June 5, 2014, GM recalled 61 model
9 year 2013-2014 Chevrolet Spark and 2013 model year Buick Encore vehicles manufactured in
10 Changwon, Korea from December 30, 2012 through May 8, 2013 because the vehicles may have a
11 condition in which the front passenger airbag end cap could separate from the airbag inflator. In a
12 crash, this may prevent the passenger airbag from deploying properly.

13 174. **Sensing and Diagnostic Model ("SDM") defect:** On June 5, 2014, GM recalled
14 33 model year 2014 Chevrolet Corvettes in the U.S. because an internal short-circuit in the sensing
15 and diagnostic module (SDM) could disable frontal air bags, safety belt pretensioners and the
16 Automatic Occupancy Sensing module.

17 175. **Sonic Turbine Shaft:** On June 11, 2014, GM recalled 21,567 Chevrolet Sonics due
18 to a transmission turbine shaft that can malfunction.

19 176. **Electrical System defect:** On June 11, 2014, GM recalled 14,765 model year 2014
20 Buick LaCrosse sedans because a wiring splice in the driver's door can corrode and break, cutting
21 power to the windows, sunroof, and door chime under certain circumstances.

22 177. **Seatbelt Tensioning System defect:** On June 11, 2014, GM recalled 8,789 model
23 year 2004-11 Saab 9-3 convertibles because a cable in the driver's seatbelt tensioning system can
24 break.

25 178. In light of GM's history of concealing known defects, there is little reason to think
26 that either GM's recalls have fully addressed the 35 recently revealed defects or that GM has
27 addressed each defect of which it is or should be aware.

28

B. GM Valued Cost-Cutting Over Safety, and Actively Encouraged Employees to Conceal Safety Issues.

179. Recently revealed information presents a disturbing picture of GM’s approach to safety issues – both in the design and manufacture stages, and in discovering and responding to defects in GM-branded vehicles that have already been sold.

180. GM made very clear to its personnel that cost-cutting was more important than safety, deprived its personnel of necessary resources for spotting and remedying defects, trained its employees not to reveal known defects, and rebuked those who attempted to “push hard” on safety issues.

181. One “directive” at GM was “cost is everything.”⁸⁰ The messages from top leadership at GM to employees, as well as their actions, were focused on the need to control cost.⁸¹

182. One GM engineer stated that emphasis on cost control at GM “permeates the fabric of the whole culture.”⁸²

183. According to Mark Reuss (President of GMNA from 2009-2013 before succeeding Mary Barra as Executive Vice President for Global Product Development, Purchasing and Supply Chain in 2014), cost and time-cutting principles known as the “Big 4” at GM “emphasized timing over quality.”⁸³

184. GM’s focus on cost-cutting created major disincentives to personnel who might wish to address safety issues. For example, those responsible for a vehicle were responsible for its costs, but if they wanted to make a change that incurred cost and affected other vehicles, they also became responsible for the costs incurred in the other vehicles.⁸⁴

185. As another cost-cutting measure, parts were sourced to the lowest bidder, even if they were not the highest quality parts.⁸⁵

⁸⁰ GM Report at 249.

⁸¹ GM Report at 250.

⁸² GM Report at 250.

⁸³ GM Report at 250.

⁸⁴ GM Report at 250.

⁸⁵ GM Report at 251.

1 186. Because of GM’s focus on cost-cutting, GM Engineers did not believe they had
2 extra funds to spend on product improvements.⁸⁶

3 187. GM’s focus on cost-cutting also made it harder for GM personnel to discover safety
4 defects, as in the case of the “TREAD Reporting team.”

5 188. GM used its TREAD database (known as “TREAD”) to store the data required to be
6 reported quarterly to NHTSA under the TREAD Act.⁸⁷ From the date of its inception in 2009,
7 TREAD has been the principal database used by GM to track incidents related to its vehicles.⁸⁸

8 189. From 2003-2007 or 2008, the TREAD Reporting team had eight employees, who
9 would conduct monthly searches and prepare scatter graphs to identify spikes in the number of
10 accidents or complaints with respect to various GM-branded vehicles. The TREAD Reporting
11 team reports went to a review panel and sometimes spawned investigations to determine if any
12 safety defect existed.⁸⁹

13 190. In or around 2007-08, Old GM reduced the TREAD Reporting team from eight to
14 three employees, and the monthly data mining process pared down.⁹⁰ In 2010, GM restored two
15 people to the team, but they did not participate in the TREAD database searches.⁹¹ Moreover, until
16 2014, the TREAD Reporting team did not have sufficient resources to obtain any of the advanced
17 data mining software programs available in the industry to better identify and understand potential
18 defects.⁹²

19 191. By starving the TREAD Reporting team of the resources it needed to identify
20 potential safety issues, GM helped to insure that safety issues would not come to light.
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22
23

24 ⁸⁶ GM Report at 251.

25 ⁸⁷ GM Report at 306.

26 ⁸⁸ GM Report at 306.

27 ⁸⁹ GM Report at 307.

28 ⁹⁰ GM Report at 307.

⁹¹ GM Report at 307-308.

⁹² GM Report at 208.

1 192. “[T]here was resistance or reluctance to raise issues or concerns in the GM culture.”
2 The culture, atmosphere and supervisor response at GM “discouraged individuals from raising
3 safety concerns.”⁹³

4 193. GM CEO Mary Barra experienced instances where GM engineers were “unwilling
5 to identify issues out of concern that it would delay the launch” of a vehicle.⁹⁴

6 194. GM supervisors warned employees to “never put anything above the company” and
7 “never put the company at risk.”⁹⁵

8 195. GM “pushed back” on describing matters as safety issues and, as a result, “GM
9 personnel failed to raise significant issues to key decision-makers.”⁹⁶

10 196. So, for example, GM discouraged the use of the word “stall” in Technical Service
11 Bulletins (“TSBs”) it sometimes sent to dealers about issues in GM-branded vehicles. According
12 to Steve Oakley, who drafted a TSB in connection with the ignition switch defects, “the term ‘stall’
13 is a ‘hot’ word that GM generally does not use in bulletins because it may raise a concern about
14 vehicle safety, which suggests GM should recall the vehicle, not issue a bulletin.”⁹⁷ Other GM
15 personnel confirmed Oakley on this point, stating that “there was concern about the use of ‘stall’ in
16 a TSB because such language might draw the attention of NHTSA.”⁹⁸

17 197. Oakley further noted that “he was reluctant to push hard on safety issues because of
18 his perception that his predecessor had been pushed out of the job for doing just that.”⁹⁹

19 198. Many GM employees “did not take notes at all at critical safety meetings because
20 they believed GM lawyers did not want such notes taken.”¹⁰⁰

21

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23 ⁹³ GM Report at 252.

24 ⁹⁴ GM Report at 252.

25 ⁹⁵ GM Report at 252-253.

26 ⁹⁶ GM Report at 253.

27 ⁹⁷ GM Report at 92.

28 ⁹⁸ GM Report at 93.

⁹⁹ GM Report at 93.

¹⁰⁰ GM Report at 254.

1 199. A GM training document released by NHTSA as an attachment to its Consent Order
2 sheds further light on the lengths to which GM went to ensure that known defects were concealed.
3 It appears that the defects were concealed pursuant to a company policy GM inherited from Old
4 GM.

5 200. The document consists of slides from a 2008 Technical Learning Symposium for
6 “designing engineers,” “company vehicle drivers,” and other employees at Old GM. On
7 information and belief, the vast majority of employees who participated in this webinar
8 presentation continued on in their same positions at GM after July 10, 2009.

9 201. The presentation focused on recalls, and the “reasons for recalls.”

10 202. One major component of the presentation was captioned “Documentation
11 Guidelines,” and focused on what employees should (and should not say) when describing
12 problems in vehicles.

13 203. Employees were instructed to “[w]rite smart,” and to “[b]e factual, not fantastic” in
14 their writing.

15 204. Company vehicle drivers were given examples of comments to avoid, including the
16 following: “This is a safety and security issue”; “I believe the wheels are too soft and weak and
17 could cause a serious problem”; and “Dangerous ... almost caused accident.”

18 205. In documents used for reports and presentations, employees were advised to avoid a
19 long list of words, including: “bad,” “dangerous,” “defect,” “defective,” “failed,” “flawed,” “life-
20 threatening,” “problem,” “safety,” “safety-related,” and “serious.”

21 206. In truly Orwellian fashion, the Company advised employees to use the words (1)
22 “Issue, Condition [or] Matter” instead of “Problem”; (2) “Has Potential Safety Implications”
23 instead of “Safety”; (3) “Broke and separated 10 mm” instead of “Failed”; (4)
24 “Above/Below/Exceeds Specification” instead of “Good [or] Bad”; and (5) “Does not perform to
25 design” instead of “Defect/Defective.”

26 207. As NHTSA’s Acting Administrator Friedman noted at the May 16, 2014 press
27 conference announcing the Consent Order concerning the ignition switch defect, it was GM’s
28 company policy to avoid using words that might suggest the existence of a safety defect:

1 GM must rethink the corporate philosophy reflected in the
2 documents we reviewed, including training materials that explicitly
3 discouraged employees from using words like ‘defect,’ ‘dangerous,’
4 ‘safety related,’ and many more essential terms for engineers and
investigators to clearly communicate up the chain when they suspect
a problem.

5 208. GM appears to have trained its employees to conceal the existence of known safety
6 defects from consumers and regulators. Indeed, it is nearly impossible to convey the potential
7 existence of a safety defect without using the words “safety” or “defect” or similarly strong
8 language that was verboten at GM.

9 209. So institutionalized at GM was the “phenomenon of avoiding responsibility” that
10 the practice was given a name: “the ‘GM salute,’” which was “a crossing of the arms and pointing
11 outward towards others, indicating that the responsibility belongs to someone else, not me.”¹⁰¹

12 210. CEO Mary Barra described a related phenomenon , “known as the ‘GM nod,” which
13 was “when everyone nods in agreement to a proposed plan of action, but then leaves the room with
14 no intention to follow through, and the nod is an empty gesture.”¹⁰²

15 211. According to the GM Report prepared by Anton R. Valukas, part of the failure to
16 properly correct the ignition switch defect was due to problems with GM’s organizational
17 structure.¹⁰³ Part of the failure to properly correct the ignition switch defect was due to a corporate
18 culture that did not care enough about safety.¹⁰⁴ Part of the failure to properly correct the ignition
19 switch defect was due to a lack of open and honest communication with NHTSA regarding safety
20 issues.¹⁰⁵ Part of the failure to properly correct the ignition switch defect was due to improper
21 conduct and handling of safety issues by lawyers within GM’s Legal Staff.¹⁰⁶ On information and
22 belief, all of these issues also helped cause the concealment of and failure to remedy the many
23 defects that have led to the spate of recalls in the first half of 2014.

24
25 ¹⁰¹ GM Report at 255.

26 ¹⁰² GM Report at 256.

27 ¹⁰³ GM Report at 259-260.

28 ¹⁰⁴ GM Report at 260-261.

¹⁰⁵ GM Report at 263.

¹⁰⁶ GM Report at 264.

1 **C. The Ignition Switch Defects Have Harmed Consumers in Orange County and the**
2 **State**

3 212. GM's unprecedented concealment of a large number of serious defects, and its
4 irresponsible approach to safety issues, has caused damage to consumers in Orange County and
5 throughout California.

6 213. A vehicle made by a reputable manufacturer of safe and reliable vehicles who
7 stands behind its vehicles after they are sold is worth more than an otherwise similar vehicle made
8 by a disreputable manufacturer known for selling defective vehicles and for concealing and failing
9 to remedy serious defects after the vehicles are sold.

10 214. A vehicle purchased or leased under the reasonable assumption that it is safe and
11 reliable is worth more than a vehicle of questionable safety and reliability due to the
12 manufacturer's recent history of concealing serious defects from consumers and regulators.

13 215. Purchasers and lessees of new and used GM-branded vehicles after the July 10,
14 2009, inception of GM paid more for the vehicles than they would have had GM disclosed the
15 many defects it had a duty to disclose in GM-branded vehicles. Because GM concealed the defects
16 and the fact that it was a disreputable brand that valued cost-cutting over safety, these consumers
17 did not receive the benefit of their bargain. And the value of all their vehicles has diminished as
18 the result of GM's deceptive conduct.

19 216. If GM had timely disclosed the many defects as required by the TREAD Act and
20 California law, California vehicle owners' GM-branded vehicles would be considerably more
21 valuable than they are now. Because of GM's now highly publicized campaign of deception, and
22 its belated, piecemeal and ever-expanding recalls, so much stigma has attached to the GM brand
23 that no rational consumer would pay what otherwise would have been fair market value for GM-
24 branded vehicles.

25 **D. Given GM's Knowledge of the Defects and the Risk to Public Safety, it Was Obligated to**
26 **Promptly Disclose and Remedy the Defects.**

27 217. The National Traffic and Motor Vehicle Safety Act of 1966 (the "Safety Act")
28 requires manufacturers of motor vehicles and motor vehicle equipment to submit certain
information to the National Highway Traffic Safety Administration (NHTSA) in order "to reduce

1 traffic accidents and deaths and injuries resulting from traffic accidents.” 49 U.S.C. § 30101 *et*
2 *seq.*

3 218. Under the Safety Act, the manufacturer of a vehicle has a duty to notify dealers and
4 purchasers of a safety defect and remedy the defect without charge. 49 U.S.C. § 30118. In
5 November 2000, Congress enacted the Transportation Recall Enhancement, Accountability and
6 Documentation (TREAD) Act, 49 U.S.C. §§ 30101-30170, which amended the Safety Act and
7 directed the Secretary of Transportation to promulgate regulation expanding the scope of the
8 information that manufacturers are required to submit to NHTSA.

9 219. The Safety Act requires manufacturers to inform NHTSA within five days of
10 discovering a defect. 49 CFR § 573.6 provides that a manufacturer “shall furnish a report to the
11 NHTSA for each defect in his vehicles or in his items of original or replacement equipment that he
12 or the Administrator determines to be related to motor vehicle safety, and for each noncompliance
13 with a motor vehicle safety standard in such vehicles or items of equipment which either he or the
14 Administrator determines to exist,” and that such reports must include, among other
15 things: identification of the vehicles or items of motor vehicle equipment potentially containing
16 the defect or noncompliance, including a description of the manufacturer’s basis for its
17 determination of the recall population and a description of how the vehicles or items of equipment
18 to be recalled differ from similar vehicles or items of equipment that the manufacturer has not
19 included in the recall; in the case of passenger cars, the identification shall be by the make, line,
20 model year, the inclusive dates (month and year) of manufacture, and any other information
21 necessary to describe the vehicles; a description of the defect or noncompliance, including both a
22 brief summary and a detailed description, with graphic aids as necessary, of the nature and physical
23 location (if applicable) of the defect or noncompliance; a chronology of all principal events that
24 were the basis for the determination that the defect related to motor vehicle safety, including a
25 summary of all warranty claims, field or service reports, and other information, with their dates of
26 receipt; a description of the manufacturer’s program for remedying the defect or noncompliance;
27 and a plan for reimbursing an owner or purchaser who incurred costs to obtain a remedy for the
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1 problem addressed by the recall within a reasonable time in advance of the manufacturer's
2 notification of owners, purchasers and dealers.

3 220. Manufacturers are also required to submit "early warning reporting" (EWR) data
4 and information that may assist the agency in identifying safety defects in motor vehicles or motor
5 vehicle equipment. *See* 49 U.S.C. § 30166(m)(3)(B). The data submitted to NHTSA under the
6 EWR regulation includes: production numbers (cumulative total of vehicles or items of equipment
7 manufactured in the year); incidents involving death or injury based on claims and notices received
8 by the manufacturer; claims relating to property damage received by the manufacturer; warranty
9 claims paid by the manufacturer (generally for repairs on relatively new products) pursuant to a
10 warranty program (in the tire industry these are warranty adjustment claims); consumer complaints
11 (a communication by a consumer to the manufacturer that expresses dissatisfaction with the
12 manufacturer's product or performance of its product or an alleged defect); and field reports
13 (prepared by the manufacturer's employees or representatives concerning failure, malfunction, lack
14 of durability or other performance problem of a motor vehicle or item of motor vehicle equipment).

15 221. Regulations promulgated under the TREAD Act also require manufacturers to
16 inform NHTSA of defects and recalls in motor vehicles in foreign countries. Under 49 CFR §§
17 579.11 and 579.12 a manufacturer must report to NHTSA not later than five working days after a
18 manufacturer determines to conduct a safety recall or other safety campaign in a foreign country
19 covering a motor vehicle sold or offered for sale in the United States. The report must include,
20 among other things: a description of the defect or noncompliance, including both a brief summary
21 and a detailed description, with graphic aids as necessary, of the nature and physical location (if
22 applicable) of the defect or noncompliance; identification of the vehicles or items of motor vehicle
23 equipment potentially containing the defect or noncompliance, including a description of the
24 manufacturer's basis for its determination of the recall population and a description of how the
25 vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment
26 that the manufacturer has not included in the recall; the manufacturer's program for remedying the
27 defect or noncompliance, the date of the determination and the date the recall or other campaign
28 was commenced or will commence in each foreign country; and identify all motor vehicles that the

1 manufacturer sold or offered for sale in the United States that are identical or substantially similar
2 to the motor vehicles covered by the foreign recall or campaign.

3 222. 49 CFR § 579.21 requires manufacturers to provide NHTSA quarterly field reports
4 related to the current and nine preceding model years regarding various systems, including, but not
5 limited to, vehicle speed control. The field reports must contain, among other things: a report on
6 each incident involving one or more deaths or injuries occurring in the United States that is
7 identified in a claim against and received by the manufacturer or in a notice received by the
8 manufacturer which notice alleges or proves that the death or injury was caused by a possible
9 defect in the manufacturer's vehicle, together with each incident involving one or more deaths
10 occurring in a foreign country that is identified in a claim against and received by the manufacturer
11 involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle
12 that the manufacturer has offered for sale in the United States, and any assessment of an alleged
13 failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of
14 motor vehicle equipment (including any part thereof) that is originated by an employee or
15 representative of the manufacturer and that the manufacturer received during a reporting period.

16 223. GM has known throughout the liability period that many GM-branded vehicles sold
17 or leased in the State of California were defective – and, in many cases, dangerously so.

18 224. Since the date of GM's inception, many people have been injured or died in
19 accidents relating to the ignition switch defects alone. While the exact injury and death toll is
20 unknown, as a result of GM's campaign of concealment and suppression of the large number of
21 defects plaguing over 17 million GM-branded vehicles, numerous other drivers and passengers of
22 the Defective Vehicles have died or suffered serious injuries and property damage. All owners and
23 lessees of GM-branded vehicles have suffered economic damage to their property due to the
24 disturbingly large number of recently revealed defects that were concealed by GM. Many are
25 unable to sell or trade their cars, and many are afraid to drive their cars.

1 **E. GM's Misrepresentations and Deceptive, False, Untrue and Misleading Advertising,**
2 **Marketing and Public Statements**

3 225. Despite its knowledge of the many serious defects in millions of GM-branded
4 vehicles, GM continued to (1) sell new Defective Vehicles; (2) sell used Defective Vehicles as
5 "GM certified"; and (3) use defective ignition switches to repair GM vehicles, all without
6 disclosing or remedying the defects. As a result, the injury and death toll associated with the
7 Defective Vehicles has continued to increase and, to this day, GM continues to conceal and
8 suppress this information.

9 226. During this time period, GM falsely assured California consumers in various written
10 and broadcast statements that its cars were safe and reliable, and concealed and suppressed the true
11 facts concerning the many defects in millions of GM-branded vehicles, and GM's policies that led
12 to both the manufacture of an inordinate number of vehicles with safety defects and the subsequent
13 concealment of those defects once the vehicles are on the road. To this day, GM continues to
14 conceal and suppress information about the safety and reliability of its vehicles.

15 227. Against this backdrop of fraud and concealment, GM touted its reputation for safety
16 and reliability, and knew that people bought and retained its vehicles because of that reputation,
17 and yet purposefully chose to conceal and suppress the existence and nature of the many safety
18 defects. Instead of disclosing the truth about the dangerous propensity of the Defective Vehicles
19 and GM's disdain for safety, California consumers were given assurances that their vehicles were
20 safe and defect free, and that the Company stands behind its vehicles after they are on the road.

21 228. GM has consistently marketed its vehicles as "safe" and proclaimed that safety is
22 one of its highest priorities.

23 229. It told consumers that it built the world's best vehicles:

24 We truly are building a new GM, from the inside out. Our vision is
25 clear: to design, build and sell the world's best vehicles, and we have
26 a new business model to bring that vision to life. We have a lower
27 cost structure, a stronger balance sheet and a dramatically lower risk
28 profile. We have a new leadership team – a strong mix of executive
talent from outside the industry and automotive veterans – and a
passionate, rejuvenated workforce.

"Our plan is to steadily invest in creating world-class vehicles, which
will continuously drive our cycle of great design, high quality and
higher profitability."

1 230. It represented that it was building vehicles with design excellence, quality and
2 performance:

3 And across the globe, other GM vehicles are gaining similar acclaim
4 for design excellence, quality and performance, including the Holden
5 Commodore in Australia. Chevrolet Agile in Brazil, Buick LaCrosse
6 in China and many others.

7 The company's progress is early evidence of a new business model
8 that begins and ends with great vehicles. We are leveraging our
9 global resources and scale to maintain stringent cost management
10 while taking advantage of growth and revenue opportunities around
11 the world, to ultimately deliver sustainable results for all of our
12 shareholders.

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1 231. The theme below was repeated in advertisements, company literature, and material
2 at dealerships as the core message about GM's Brand:



A New Vision, a New Business Model

Our vision is simple, straightforward and clear; to design, build and sell the world's best vehicles. That doesn't mean just making our vehicles better than the ones they replace. We have set a higher standard for the new GM—and that means building the best.

Our vision comes to life in a continuous cycle that starts, ends and begins again with great vehicle designs. To accelerate the momentum we've already created, we reduced our North American portfolio from eight brands to four: Chevrolet, Buick, Cadillac and GMC. Worldwide, we're aggressively developing and leveraging global vehicle architectures to maximize our talent and resources and achieve optimum economies of scale.

Across our manufacturing operations, we have largely eliminated overcapacity in North America while making progress in Europe, and we're committed to managing inventory with a new level of discipline. By using our manufacturing capacity more efficiently

and maintaining leaner vehicle inventories, we are reducing the need to offer sales incentives on our vehicles. These moves, combined with offering attractive, high-quality vehicles, are driving healthier margins—and at the same time building stronger brands.

Our new business model creates a self-sustaining cycle of reinvestment that drives continuous improvement in vehicle design, manufacturing discipline, brand strength, pricing and margins, because we are now able to make money at the bottom as well as the top of the industry cycles.

We are seeing positive results already. In the United States, for example, improved design, content and quality have resulted in solid gains in segment share, average transaction prices and projected residual values for the Chevrolet Equinox, Buick LaCrosse and Cadillac SRX. This is just the beginning.

232. It represented that it had a world-class lineup in North America:

A World-Class Lineup in North America



Chevrolet Cruze

Global success is no surprise for the new Chevrolet Cruze, which is sold in more than 80 countries around the world. In addition to a 42 mpg Eco model (sold in North America), Cruze's globally influenced design is complemented by its exceptional quietness, high quality and attention to detail not matched by the competition.



Buick Regal

The sport-injected Buick Regal is the brand's latest addition, attracting a whole new demographic for the Buick brand. The newly designed Buick lineup, which saw 52 percent volume growth in 2010 in the United States alone, is appealing to a broader spectrum of buyers.



Chevrolet Equinox

The Chevrolet Equinox delivers best-in-segment 32-mpg highway fuel economy in a sleek, roomy new package. With the success of the Equinox and other strong-selling crossovers, GM leads the U.S. industry in total unit sales for the segment.



Chevrolet Sonic

Stylish four-door sedan and sporty five-door hatchback versions of the Chevrolet Sonic will be in U.S. showrooms in fall 2011. Currently the only small car built in the United States, it will be sold as the Aveo in other parts of the world.



Buick LaCrosse

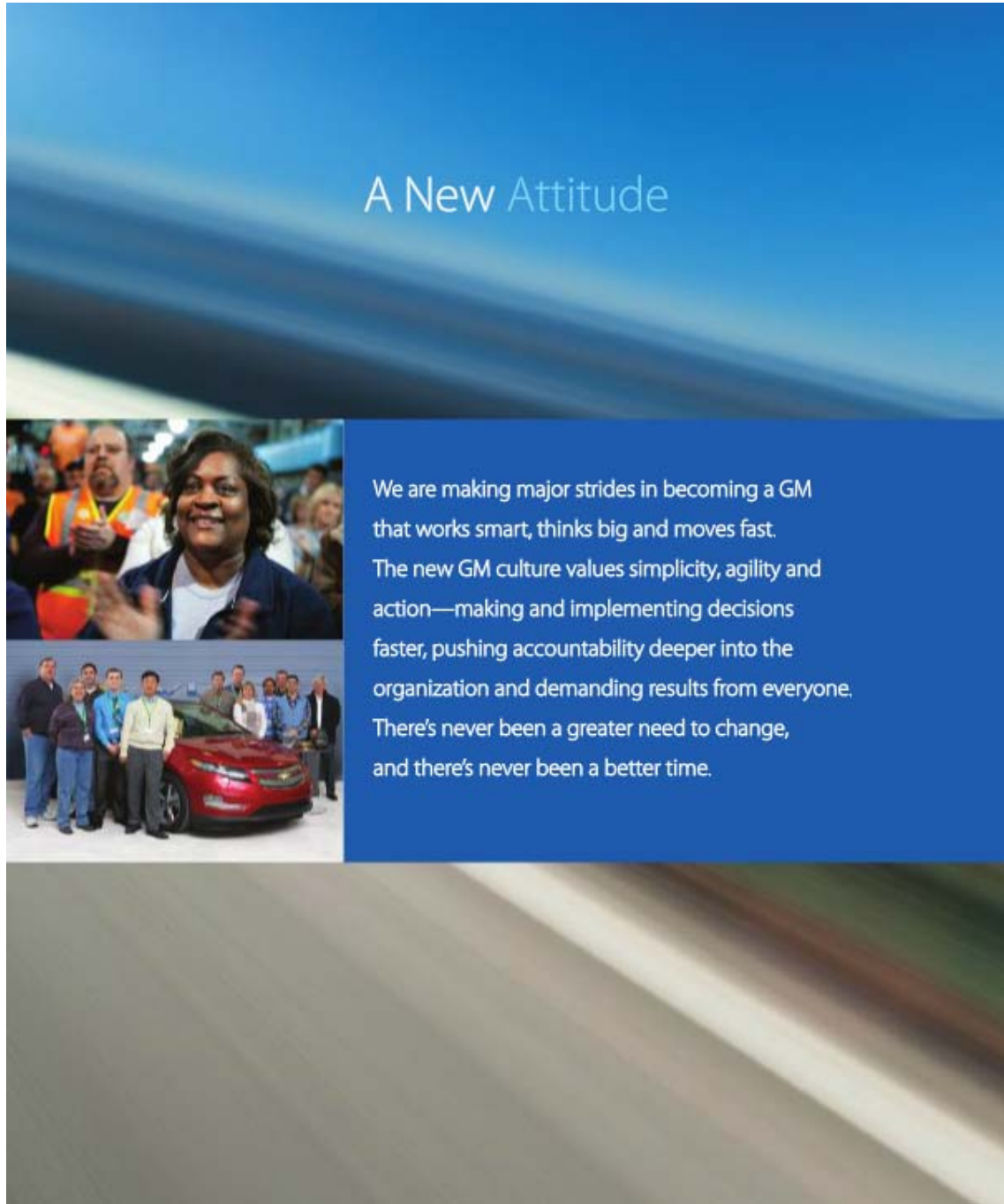
Buick builds on the brand's momentum in the United States and China with the fuel-efficient LaCrosse. With eAssist technology, the LaCrosse achieves an expected 37 mpg on the highway.



Buick Verano

The all-new Buick Verano, which will be available in late 2011, appeals to customers in the United States, Canada and Mexico who want great fuel economy and luxury in a smaller but premium package.

1 233. It boasted of its new “culture”:



24 234. In its 2012 Annual Report, GM told the world the following about its brand:

25 What is immutable is our focus on the customer, which requires us to
26 go from “good” today to “great” in everything we do, including
product design, initial quality, durability and service after the sale.

27 235. GM also indicated it had changed its structure to create more “accountability”

28 which, as shown above, was a blatant falsehood:

1 That work continues, and it has been complemented by changes to
2 our design and engineering organization that have flattened the
3 structure and created more accountability for produce execution,
4 profitability and customer satisfaction.

5 236. And GM represented that product quality was a key focus – another blatant
6 falsehood:

7 Product quality and long-term durability are two other areas that
8 demand our unrelenting attention, even though we are doing well on
9 key measures.

10 237. In its 2013 Letter to Stockholders GM noted that its brand had grown in value and
11 boasted that it designed the “World’s Best Vehicles”:

12 Dear Stockholder:

13 Your company is on the move once again. While there were highs
14 and lows in 2011, our overall report card shows very solid marks,
15 including record net income attributable to common stockholders of
16 \$7.6 billion and EBIT-adjusted income of \$8.3 billion.

- 17 • GM’s overall momentum, including a 13 percent sales
18 increase in the United States, created new jobs and drove
19 investments. We have announced investments in 29 U.S.
20 facilities totaling more than \$7.1 billion since July 2009, with
21 more than 17,500 jobs created or retained.

22 Design, Build and Sell the World’s Best Vehicles

23 This pillar is intended to keep the customer at the center of
24 everything we do, and success is pretty easy to define. It means
25 creating vehicles that people desire, value and are proud to own.
26 When we get this right, it transforms our reputation and the
27 company’s bottom line.

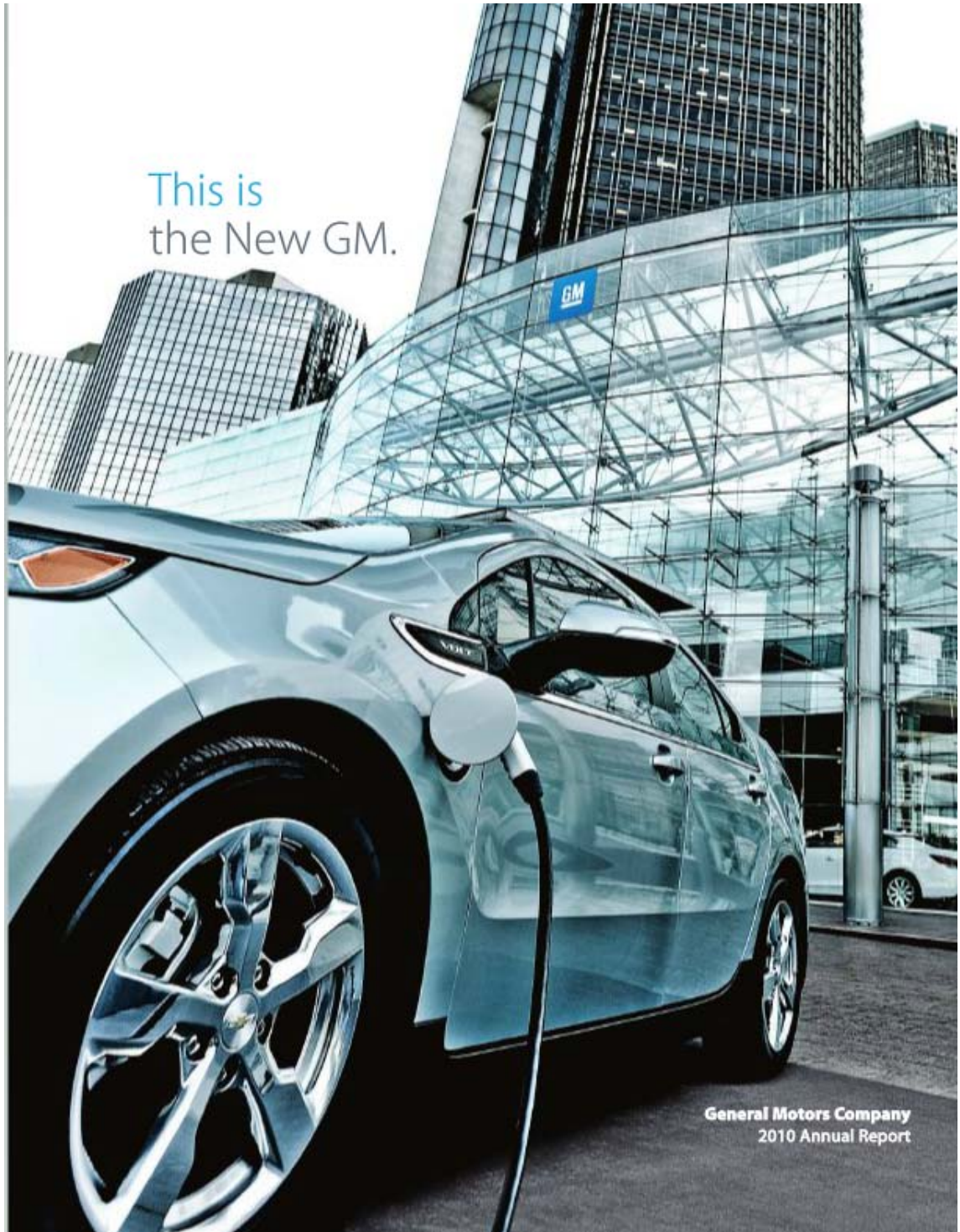
28 Strengthen Brand Value

Clarity of purpose and consistency of execution are the cornerstones
of our product strategy, and two brands will drive our global growth.
They are Chevrolet, which embodies the qualities of value,
reliability, performance and expressive design; and Cadillac, which
creates luxury vehicles that are provocative and powerful. At the
same time the Holden, Buick, GMC, Baojun, Opel and Vauxhall
brands are being carefully cultivated to satisfy as many customers as
possible in select regions.

Each day the cultural change underway at GM becomes more
striking. The old internally focused, consensus-driven and overly
complicated GM is being reinvented brick by brick, by truly
accountable executives who know how to take calculated risks and
lead global teams that are committed to building the best vehicles in
the world as efficiently as we can.

1 That's the crux of our plan. The plan is something we can control.
2 We like the results we're starting to see and we're going to stick to
3 it – always.

3 238. Once it emerged from bankruptcy, GM told the world it was a new and improved
4 company:



1
2 239. A radio ad that ran from GM's inception until July 16, 2010, stated that "[a]t GM,
3 building quality cars is the most important thing we can do."

4 240. An online ad for "GM certified" used vehicles that ran from July 6, 2009 until
5 April 5, 2010, stated that "GM certified means no worries."

6 241. GM's Chevrolet brand ran television ads in 2010 showing parents bringing their
7 newborn babies home from the hospital, with the tagline "[a]s long as there are babies, there'll be
8 Chevys to bring them home."

9 242. Another 2010 television ad informed consumers that "Chevrolet's ingenuity and
10 integrity remain strong, exploring new areas of design and power, while continuing to make some
11 of the safest vehicles on earth."

12 243. An online national ad campaign for GM in April of 2012 stressed "Safety. Utility.
13 Performance."

14 244. A national print ad campaign in April of 2013 states that "[w]hen lives are on the
15 line, you need a dependable vehicle you can rely on. Chevrolet and GM ... for power,
16 performance and safety."

17 245. A December 2013 GM testimonial ad stated that "GM has been able to deliver a
18 quality product that satisfies my need for dignity and safety."

19 246. GM's website, GM.com, states:

20 Innovation: Quality & Safety; GM's Commitment to Safety; Quality
21 and safety are at the top of the agenda at GM, as we work on
22 technology improvements in crash avoidance and crashworthiness to
23 augment the post-event benefits of OnStar, like advanced automatic
24 crash notification. Understanding what you want and need from your
25 vehicle helps GM proactively design and test features that help keep
26 you safe and enjoy the drive. Our engineers thoroughly test our
27 vehicles for durability, comfort and noise minimization before you
28 think about them. The same quality process ensures our safety
technology performs when you need it.

25 247. On February 25, 2014, GM North America President Alan Batey publically stated:
26 "Ensuring our customers' safety is our first order of business. We are deeply sorry and we are
27 working to address this issue as quickly as we can."
28

1 248. These proclamations of safety and assurances that GM’s safety technology performs
2 when needed were false and misleading because they failed to disclose the dangerous defects in
3 millions of GM-branded vehicles, and the fact GM favored cost-cutting and concealment over
4 safety. GM knew or should have known that its representations were false and misleading.

5 249. GM continues to make misleading safety claims in public statements,
6 advertisements, and literature provided with its vehicles.

7 250. GM violated California law in failing to disclose and in actively concealing what it
8 knew regarding the existence of the defects, despite having exclusive knowledge of material facts
9 not known to the Plaintiff or to California consumers, and by making partial representations while
10 at the same time suppressing material facts. *LiMandri v. Judkins* (1997) 52 Cal. App. 4th 326, 337,
11 60 Cal. Rptr. 2d 539. In addition, GM had a duty to disclose the information that it knew about the
12 defects because such matters directly involved matters of public safety.

13 251. GM violated California law in failing to conduct an adequate retrofit campaign
14 (*Hernandez v. Badger Construction Equip. Co.* (1994) 28 Cal. App. 4th 1791, 1827), and in failing
15 to retrofit the Defective Vehicles and/or warn of the danger presented by the defects after becoming
16 aware of the dangers after their vehicles had been on the market (*Lunghi v. Clark Equip. Co.*
17 (1984) 153 Cal. App. 3d 485; *Balido v. Improved Machinery, Inc.* (1972) 29 Cal. App. 3d 633).

18 252. GM also violated the TREAD Act, and the regulations promulgated under the Act,
19 when it failed to timely inform NHTSA of the defects and allowed cars to remain on the road with
20 these defects. By failing to disclose and actively concealing the defects, by selling new Defective
21 Vehicles and used “GM certified” Defective Vehicles without disclosing or remedying the defects,
22 and by using defective ignition switches for “repairs,” GM engaged in deceptive business practices
23 prohibited by the CLRA, Cal. Civ. Code § 1750, *et seq.*, including (1) representing that GM
24 vehicles have characteristics, uses, benefits, and qualities which they do not have; (2) representing
25 that new Defective Vehicles and ignition switches and used “GM certified” vehicles are of a
26 particular standard, quality, and grade when they are not; (3) advertising GM vehicles with the
27 intent not to sell them as advertised; (4) representing that the subjects of transactions involving GM
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1 vehicles have been supplied in accordance with a previous representation when they have not; and
2 (5) selling Defective Vehicles in violation of the TREAD Act.

3 **VI. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

6 253. Plaintiff realleges and incorporates by reference all preceding paragraphs.

7 254. GM has engaged in, and continues to engage in, acts or practices that constitute
8 unfair competition, as that term is defined in section 17200 of the California Business and
9 Professions Code.

10 255. GM has violated, and continues to violate, Business and Professions Code section
11 17200 through its unlawful, unfair, fraudulent, and/or deceptive business acts and/or practices.
12 GM uniformly concealed, failed to disclose, and omitted important safety-related material
13 information that was known only to GM and that could not reasonably have been discovered by
14 California consumers. Based on GM's concealment, half-truths, and omissions, California
15 consumers agreed to purchase or lease one or more (i) new or used GM vehicles sold on or after
16 July 10, 2009; (ii) "GM certified" Defective Vehicles sold on or after July 10, 2009; (iii) and/or to
17 have their vehicles repaired using GM's defective ignition switches. GM also repeatedly and
18 knowingly made untrue and misleading statements in California regarding the purported reliability
19 and safety of its vehicles, and the importance of safety to the Company. The true information
20 about the many serious defects in GM-branded vehicles, and GM's disdain for safety, was known
21 only to GM and could not reasonably have been discovered by California consumers.

22 256. As a direct and proximate result of GM's concealment and failure to disclose the
23 many defects and the Company's institutionalized devaluation of safety, GM intended that
24 consumers would be misled into believing that that GM was a reputable manufacturer of reliable
25 and safe vehicles when in fact GM was an irresponsible manufacture of unsafe, unreliable and
26 often dangerously defective vehicles.

UNLAWFUL

1
2 257. The unlawful acts and practices of GM alleged above constitute unlawful business
3 acts and/or practices within the meaning of California Business and Professions Code section
4 17200. GM’s unlawful business acts and/or practices as alleged herein have violated numerous
5 federal, state, statutory, and/or common laws – and said predicate acts are therefore per se
6 violations of section 17200. These predicate unlawful business acts and/or practices include, but
7 are not limited to, the following: California Business and Professions Code section 17500 (False
8 Advertising), California Civil Code section 1572 (Actual Fraud – Omissions), California Civil
9 Code section 1573 (Constructive Fraud by Omission), California Civil Code section 1710 (Deceit),
10 California Civil Code section 1770 (the Consumers Legal Remedies Act – Deceptive Practices),
11 California Civil Code section 1793.2 *et seq.* (the Consumer Warranties Act), and other California
12 statutory and common law; the National Traffic and Motor Vehicle Safety Act (49 U.S.C. § 30101
13 *et. seq.*), as amended by the Transportation Recall Enhancement, Accountability and
14 Documentation TREAD Act, (49 U.S.C. §§ 30101-30170) including, but not limited to 49 U.S.C.
15 §§ 30112, 30115, 30118 and 30166, Federal Motor Vehicle Safety Standard 124 (49 C.F.R. §
16 571.124), and 49 CFR §§ 573.6, 579.11, 579.12, and 579.21.

UNFAIR

17
18 258. GM’s concealment, omissions, and misconduct as alleged in this action constitute
19 negligence and other tortious conduct and gave GM an unfair competitive advantage over its
20 competitors who did not engage in such practices. Said misconduct, as alleged herein, also
21 violated established law and/or public policies which seek to promote prompt disclosure of
22 important safety-related information. Concealing and failing to disclose the nature and extent of
23 the numerous safety defects to California consumers, before (on or after July 10, 2009) those
24 consumers (i) purchased one or more GM vehicles; (ii) purchased used “GM certified” Defective
25 Vehicles; or (iii) had their vehicles repaired with defective ignition switches, as alleged herein, was
26 and is directly contrary to established legislative goals and policies promoting safety and the
27 prompt disclosure of such defects, prior to purchase. Therefore GM’s acts and/or practices alleged
28 herein were and are unfair within the meaning of Business and Professions Code section 17200.

1 264. California consumers have been, and continue to be, deceived by GM’s
2 concealment and material omissions as alleged herein. California consumers have suffered injury
3 and lost money as a direct result of the deceptive conduct as alleged herein. The unlawful, unfair,
4 deceptive, and/or fraudulent business acts and practices of GM, as fully described herein, present a
5 continuing threat to the citizens of California to be misled and/or deceived by GM as alleged
6 herein, and/or to be substantially injured by these dangerously defective cars.

7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

9 265. Plaintiff realleges and incorporates by reference all preceding paragraphs.
10 266. California Business and Professions Code § 17500 states: “It is unlawful for any ...
11 corporation ... with intent directly or indirectly to dispose of real or personal property ... to induce
12 the public to enter into any obligation relating thereto, to make or disseminate or cause to be made
13 or disseminated ... from this state before the public in any state, in any newspaper or other
14 publication, or any advertising device, ... or in any other manner or means whatever, including over
15 the Internet, any statement ... which is untrue or misleading, and which is known, or which by the
16 exercise of reasonable care should be known, to be untrue or misleading.”

17 267. GM caused to be made or disseminated through California and the United States,
18 through advertising, marketing, and other publications, statements that were untrue or misleading,
19 and which were known, or which by the exercise of reasonable care should have been known to
20 GM, to be untrue and misleading to consumers.

21 268. GM has violated section 17500 because the misrepresentations and omissions
22 regarding the safety and reliability of its vehicles and the importance of safety to the Company as
23 set forth in this First Amended Complaint were material and likely to deceive a reasonable
24 consumer.

25 269. California consumers were exposed to and saw advertisements for GM vehicles on
26 television, in magazines, on billboards, in brochures at dealerships, and on the Internet before
27 purchasing GM vehicles. Had those advertisements, window stickers, or any other materials
28 disclosed that millions of GM-branded vehicles contained serious safety defects and that GM did

1 not value safety, consumers would not have purchased new GM vehicles on or after July 10, 2009
2 and would not have purchased “GM certified” Defective Vehicles on or after July 10, 2009.

3 270. Despite notice of the serious safety defects in so many its vehicles, GM did not
4 disclose to consumers that its vehicles – which GM for years had advertised as “safe” and
5 “reliable” – were in fact not as safe or reliable as a reasonable consumer expected due to the risks
6 created by the many known defects, and GM’s focus on cost-cutting at the expense of safety and
7 the resultant concealment of numerous safety defects. GM never disclosed what it knew about the
8 defects. Rather than disclose the truth, GM concealed the existence of the defects, and claimed to
9 be a reputable manufacturer of safe and reliable vehicles.

10 271. GM, by the acts and misconduct alleged herein, violated Business & Professions
11 Code section 17500, and GM has engaged in, and continues to engage in, acts or practices that
12 constitute false advertising.

13 272. GM has violated, and continues to violate, Business and Professions Code section
14 17500 by disseminating untrue and misleading statements as defined by Business and Professions
15 Code 17500. GM has engaged in acts and practices with intent to induce members of the public to
16 purchase its vehicles by publicly disseminated advertising which contained statements which were
17 untrue or misleading, and which GM knew, or in the exercise of reasonable care should have
18 known, were untrue or misleading, and which concerned the real or personal property or services
19 or their disposition or performance.

20 273. GM repeatedly and knowingly made untrue and misleading statements in California
21 regarding the purported reliability and safety of its vehicles. The true information was known only
22 to GM and could not reasonably have been discovered by California consumers. GM uniformly
23 concealed, failed to disclose and omitted important safety-related material information that was
24 known only to GM and that could not reasonably have been discovered by California consumers.
25 Based on GM’s concealment, half-truths, and omissions, California consumers agreed (on or after
26 July 10, 2009) (i) to purchase GM vehicles; (ii) to purchase used “GM certified” Defective
27 Vehicles; and/or (iii) to have their vehicles repaired using defective ignition switches,
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274. As a direct and proximate result of GM's concealment and failure to disclose the many safety defects, GM intended that consumers would be misled into believing that they would be purchasing a safe and reliable vehicle built by a reputable manufacturer that values safety, when in fact they were purchasing vehicles that were in many cases dangerously defective and were in every case overpriced because they were in fact built by an irresponsible manufacturer that valued cost-cutting over safety and routinely concealed a myriad of serious defects from regulators and the public.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against GM as follows:

A. Pursuant to Business and Professions Code sections 17203 and 17535, that GM, its employees, agents, representatives, successors, assigns, and all persons who act in concert with them be permanently enjoined from committing any acts of unfair competition, including the violations alleged herein.

B. Pursuant to Business and Professions Code sections 17206 and 17536, that GM be ordered to pay a civil penalty in the amount of Two Thousand Five Hundred dollars (\$2,500.00) for each violation of Business and Professions Code section 17200 and for Five Thousand dollars (\$5,000) for each violation of Business and Professions Code section 17500 by GM in an amount according to proof.

C. That Plaintiff recover its costs of suit, including costs of investigation.

D. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5, or other applicable law; and

E. For such other equitable relief as is just and proper.

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1 Dated: July 1, 2014

Respectfully submitted,

2 TONY RACKAUCKAS, DISTRICT ATTORNEY
3 COUNTY OF ORANGE, STATE OF CALIFORNIA

4 By: Tony Rackauckas
5 TONY RACKAUCKAS

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