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**COUNSEL FOR BOYD BRYANT, ON BEHALF OF HIMSELF
AND ALL OTHERS SIMILARLY SITUATED**

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

| | | |
|------------------------------------|---|--------------------------------|
| In re: | § | |
| | § | Chapter 11 |
| GENERAL MOTORS CORPORATION, | § | |
| <i>et al</i> | § | |
| | § | CASE NO. 09-50026 (REG) |
| | § | |
| Debtor. | § | Jointly Administered |

**OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF AN
ORDER PURSUANT TO BANKRUPTCY RULES 9006(b) AND 9027
ENLARGING THE TIME WITHIN WHICH TO FILE NOTICES
OF REMOVAL OF RELATED PROCEEDINGS**

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

COMES NOW, Boyd Bryant, on behalf of himself and all others similarly situated (collectively “Bryant”), and files this his *Objection to Motion of Debtors for Entry of an Order Pursuant to Bankruptcy Rules 9006(b) and 9027 Enlarging the Time Within to File Notices of Removal of Related Proceedings* in the above-referenced Chapter 11 bankruptcy case of Debtor, General Motors Corporation (“Debtor”), and would respectfully show the Court the following:

**OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF AN ORDER PURSUANT TO
BANKRUPTCY RULES 9006(b) AND 9027 ENLARGING THE TIME WITHIN WHICH TO
FILE NOTICES OF REMOVAL OF RELATED PROCEEDINGS – Page 1**

I. JURISDICTION

1. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1334.
2. This is a core proceeding within the meaning of 28 U.S.C. § 157(b).

II. BACKGROUND

3. On February 8, 2005, Bryant filed a civil action against Debtor in the Circuit Court of Miller County, State of Arkansas (the “State Action”). The State Action was brought on behalf of himself and a nationwide class of approximately four million vehicle owners. Among other things, the State Action involves causes of action based on warranty, fraud, and unjust enrichment.

4. On January 11, 2007, the Circuit Court certified the State Action as a nationwide class action. The Arkansas Supreme Court later affirmed that certification on June 19, 2008.

5. Debtor commenced the above-styled bankruptcy case by filing a voluntary petition under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”), on or about June 1, 2009 (the “Petition Date”).

6. On or about July 9, 2009, pursuant to 28 U.S.C. § 1452(a), Debtor filed in the United States Bankruptcy Court for the Western District of Arkansas, a Notice of Removal to remove the State Action to federal court. A true and correct copy of the Notice of Removal, without exhibit, is attached hereto as **Exhibit A**.

III. OBJECTION

7. Bryant objects to the *Motion of Debtors for Entry of an Order Pursuant to Bankruptcy Rules 9006(b) and 9027 Enlarging the Time Within to File Notices of Removal of Related Proceedings* (the “Motion”), on the grounds that the Debtor has failed to show cause

why the period should be enlarged. *See* Fed. R. Bankr. P. 9006(b)(1). Contrary to what Debtor seems to assert in the Motion, the ability to enlarge the removal deadline is not absolute. In fact, in order for the Judge to enlarge the time, he must find in his discretion that cause exists to do so. *See* Fed. R. Bankr. P. 9006(b)(1). Deadlines exist in order to effectuate a timely efficient proceeding. As one court has stated:

We live in a world of deadlines. If we're late for the start of the game or the movie, or late for the departure of the plane or the train, things go forward without us. The practice of law is no exception. A good judge sets deadlines, and the judge has a right to assume that deadlines will be honored. The flow of cases through a busy district court is aided, not hindered, by adherence to deadlines.

Spears v. City of Indianapolis, 74 F.3d 153, 157 (7th Cir. 1996). Although the Debtor may be facing a number of pending litigation claims, that alone does not give rise to cause why the deadline should be enlarged.

8. Further, Bryant objects to the extent that the Motion requests that the Debtor be given until the date an order for confirmation is entered to exercise its rights of removal. Such a request has the result of giving no effect to the deadlines outlined in the Federal Rules of Bankruptcy Procedure. Consequently, the Debtor becomes a moving target. Without deadlines, there is no finality, and it becomes impossible for creditors to know what treatment to expect in a plan of reorganization. Accordingly, Debtor should be required to at least state a date by which it will decide whether to exercise its rights removal rights.

9. Finally, Bryant objects to the Motion to the extent that it is inapplicable to Bryant. Debtor has already filed a Notice of Removal with regard to the State Action, and thus there is no “cause” to extend the deadline as to Bryant. *See* Fed. Bankr. R. Proc. 9006(b)(1) and 9027.

WHEREFORE, PREMISES CONSIDERED, Bryant respectfully requests that the Court deny the Motion, or in the alternative require the Debtor to specify a date by which it will

OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY RULES 9006(b) AND 9027 ENLARGING THE TIME WITHIN WHICH TO FILE NOTICES OF REMOVAL OF RELATED PROCEEDINGS – Page 3

exercise its rights of removal, or enter an order stating that the Motion does not apply to Bryant, and grant such other and further relief to which he may show himself justly entitled.

Respectfully submitted,

/s/ Rakhee V. Patel

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BEHALF OF HIMSELF AND ALL OTHERS
SIMILARLY SITUATED**

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing has been served electronically through the Court's ECF System this 13th day of August, 2009, on all parties registered to receive electronic notice.

/s/ Rakhee V. Patel

Rakhee Patel

3.

The complaint, as amended, asserts causes of action based on warranty, fraud and unjust enrichment.

4.

The Circuit Court certified the nationwide class action sought by plaintiff on January 11, 2007. The Arkansas Supreme Court affirmed that certification order on June 19, 2008.

5.

On June 1, 2009, GM filed for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York. *See* Case No. 09-50026. A copy of the Notice of Bankruptcy Filing is attached hereto as Exhibit 1.

6.

All proceedings against GM in the state court action are subject to a pending stay order.

BANKRUPTCY REMOVAL

7.

All claims or causes of action asserted in this matter are removable to this Court pursuant to the following provisions, by way of example only: 28 U.S.C. §§157, 1331, 1334, 1441 and 1452, and Rule 9027 of the Bankruptcy Rules.

8.

28 U.S.C. §1452(a) provides that “a party may remove any claim or cause of action in a civil action . . . to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.”

9.

28 U.S.C. §1334(b) provides that “the district court shall have original but not exclusive jurisdiction of all civil proceedings arising under Title 11 or arising in or related to cases under Title 11.”

10.

This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334(b) and this action may be removed to this Court pursuant to 28 U.S.C. §1452 because this action arises in, arises under, and is related to GM’s bankruptcy proceeding, pending in Case No. 09-50026 on the docket of the United States Bankruptcy Court for the Southern District of New York. Among other things, this action is related to the pending bankruptcy because the outcome of this proceeding could conceivably have an effect on the estate being administered in bankruptcy.

11.

Upon removal, some of the asserted claims against GM may be core, and some claims may be non-core. To the extent that any claims against GM are non-core, GM does not consent to entry of final orders or judgments by the bankruptcy judge at this time.

SUPPLEMENTAL JURISDICTION

12.

To the extent that any claims against any party are not removable under bankruptcy jurisdiction, this Court has supplemental jurisdiction over such claims pursuant to 28 U.S.C. §§1367 and 1441.

MISCELLANEOUS

13.

This Notice of Removal is timely filed pursuant to Fed. R. Bankr. P. 9027. Rule 9027(a)(2) provides that if a claim or cause of action in a civil action is pending when a case

under the Bankruptcy Code is commenced, a notice of removal may be filed within 90 days after the order for relief in the case. GM filed a Voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code on June 1, 2009, and the order for relief was entered contemporaneously with the filing. 11 U.S.C. § 301(b) (“The commencement of a voluntary case under a chapter of the [Bankruptcy Code] constitutes an order for relief under such chapter.”). This Notice of Removal is filed within 90 days of the order of relief in this case.

14.

Written notice of the filing of this Notice of Removal is being served upon counsel for all of the parties herein and on the Clerk of Court for the Circuit Court, Miller County, State of Arkansas.

15.

A copy of the process and pleadings served on GM from the state court action is attached to this notice as Exhibit 2.

16.

Removal jurisdiction and venue exists in the United States Bankruptcy Court for the Western District of Arkansas, Texarkana Division, because the state court where the action is pending is within the referenced district and division. 28 U.S.C. § 1334; 28 U.S.C. § 1452; 28 U.S.C. §83(b); FRBP 9027; Local Rule 83.1, Eastern and Western District of Arkansas.

17.

GM reserves the right to amend or supplement this Notice of Removal.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was sent by federal express to the following counsel of record on this the 9th day of July, 2009.

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