

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION**

MDL No. 2543

ORDER DENYING TRANSFER

Before the Panel:* Defendant General Motors LLC (General Motors) moves under 28 U.S.C. § 1407(c) for transfer of the action listed on Schedule A (*Hopkins*) to the Southern District of New York for inclusion in MDL No. 2543. Plaintiff opposes the motion.

The actions in MDL No. 2543 involve factual questions arising from an alleged defect in certain General Motors vehicles that causes the vehicle’s ignition switch to move unintentionally from the “run” position to the “accessory” or “off” position. *See In re: General Motors LLC Ignition Switch Litig.*, 26 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014). While MDL No. 2543 initially included only actions asserting economic damages, it has been expanded to include personal injury and wrongful death actions.

The current *Hopkins* complaint alleges that plaintiff was driving a 2009 Chevrolet Malibu when, attempting to navigate an S-curve in the road, the electronic stability control in her vehicle failed to engage and the electronic power steering suddenly failed. Plaintiff alleges that increased resistance in the vehicle’s body control unit module led to voltage fluctuations in the brake apply sensor circuit. This allegedly led in turn to the disabling of numerous crash avoidance features such as traction control, electronic stability control, and panic braking assist features. Plaintiff alleges she sustained bodily injuries from the resulting crash. Though *Hopkins* initially included two brief allegations concerning the ignition switch defect at issue in MDL No. 2543, plaintiff has removed those allegations, and the current complaint contains no such references. We have declined to include in MDL No. 2543 actions that do not involve any mention of an ignition switch defect where the plaintiff opposes transfer, particularly actions that involve personal injury rather than economic loss claims. *See, e.g.*, Order Denying Mot. for Recons. (*Grant*), MDL No. 2543, ECF No. 740, at 1 (J.P.M.L. Jun. 8, 2015).

General Motors relies on the Panel’s recent decision granting transfer of the *Hammatt* action to MDL No. 2543—arguing that plaintiff’s amendment was merely “gamesmanship” to avoid transfer. But, the *Hammatt* plaintiffs failed to remove their ignition switch allegations, and the remaining allegations in their complaint suggested that factual issues and discovery regarding the

*Judge Charles R. Breyer did not participate in the Panel’s decision. Certain Panel members who could be members of the putative classes in MDL No. 2543 have renounced their participation in these classes and have participated in the decision.

-2-

ignition switch defect would overlap between *Hammatt* and MDL No. 2543. *See* Transfer Order (*Hammatt*), MDL No. 2543, ECF No. 871, at 2 (J.P.M.L. Dec. 9, 2015). In contrast, the *Hopkins* plaintiff has removed any reference to the ignition switch defect, and nothing in the complaint suggests that discovery regarding the ignition switch defect will be relevant to the *Hopkins* complaint. Accordingly, we are not persuaded that *Hopkins* shares sufficient factual and legal issues with the actions in MDL No. 2543 to merit transfer, or that inclusion of this action in MDL No. 2543 would serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation.

IT IS THEREFORE ORDERED that the motion to transfer the action listed on Schedule A to MDL No. 2543 is denied.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Lewis A. Kaplan
R. David Proctor

**IN RE: GENERAL MOTORS LLC
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MDL No. 2543

SCHEDULE A

District of Colorado

HOPKINS v. GENERAL MOTORS LLC, C.A. No. 1:15-02322