

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD FRANCIS, WESLEY WON,
DENNIS SPEERLY, JOSEPH SIERCIO,
MICHAEL PLAFKER, HOWARD YOUNG,
and DARRIN DEGRAND,

Plaintiffs,

v.

GENERAL MOTORS, LLC,

Defendant.

Case Number 19-11044
Honorable David M. Lawson

**ORDER GRANTING JOINT
MOTION TO APPOINT
LEAD AND LIAISON
COUNSEL AND PLAINTIFFS'
STEERING COMMITTEE**

KEITH SHELTON, KAREN SHELTON,
DANIEL DRAIN, WAVERS SMITH,
RICHARD FREEMAN, SAMUEL FORD,
KEITH FENSKE, COLTON KELLY,
and CHRISOPHER GILES,

Plaintiffs,

v.

GENERAL MOTORS, LLC,

Defendant.

Case Number 19-11802

LOUIS RAY,

Plaintiff,

v.

GENERAL MOTORS, LLC,

Defendant.

Case Number 19-11808

DENNIS DUFFY, RICHARD SULLIVAN,
DANIEL BAPTIST, DENNIS SPEERLY,
MICHAEL PLAFKER, JOHN IASIELLO,
and BENJI TOMPKINS,

Case Number 19-11875

Plaintiffs,

v.

GENERAL MOTORS, INC.,

Defendant.

MARISELLA GUTIERREZ, JIMMY
HARMAN, MARK KIDD, and JAMES
NORVELL,

Case Number 19-12371

Plaintiffs,

v.

GENERAL MOTORS, LLC,

Defendant.

**ORDER GRANTING JOINT MOTION TO APPOINT
LEAD AND LIAISON COUNSEL AND STEERING COMMITTEE**

These related matters are before the Court on a motion to appoint lead and liaison counsel and members of a plaintiffs' steering committee that was filed and joined by counsel for the plaintiffs in each of the separate matters. The Court has reviewed the joint motion and heard oral argument on September 11, 2019. Although the motion was not formally joined by the plaintiffs in the *Gutierrez* case, No. 19-12371, counsel for the plaintiffs in that case appeared at the hearing and made an oral motion joining in the relief requested, but also asking that his law firm be permitted to nominate a member to serve on the steering committee. The Court took the motion under advisement pending the submission of names of attorneys to be appointed to the various leadership positions. The plaintiffs jointly submitted a proposed roster for the leadership team on September 12, 2019, but that submission did not include any nominee to represent the plaintiffs in the *Gutierrez* matter. The Court will grant the unopposed motion conditionally, pending the

submission of a nominee from the law firm of plaintiffs' counsel in the *Gutierrez* matter to be added to the steering committee.

Accordingly, it is **ORDERED** that the joint motion to appoint a leadership team (No. 19-11044, ECF No. 24, 26) and the oral joinder motion by plaintiff Gutierrez (No. 19-12371, ECF No. 19) conditionally are **GRANTED**, pending the submission by the plaintiffs of a steering committee nominee from the law firm representing the *Gutierrez* plaintiffs.

It is further **ORDERED** as follows.

I. Appointment of Lead Counsel. The Court designates the following counsel as plaintiffs' Lead Counsel and chair of the Plaintiffs' Steering Committee (PSC):

Theodore J. Leopold
Cohen Milstein Sellers & Toll, PLLC
2925 PGA Boulevard, Suite 200
Palm Beach Gardens, Florida 33410
Phone: (561) 515-1400
Fax: (561) 515-1401
Email: tleopold@cohenmilstein.com

The Court vests Mr. Leopold, as Lead Counsel and PSC Chair, with the authority and duty to coordinate and oversee the PSC responsibilities set forth below; to schedule PSC meetings and keep minutes or transcripts of these meetings; to appear at periodic Court-noticed status conferences and hearings; to sign and file all pleadings relating to all actions; and to bind the PSC in scheduling settlement discussions and discovery, setting agendas, entering into stipulations, and in other necessary interactions with the settlement master (if any), defense counsel, and the PSC. Mr. Leopold also shall have the authority to retain the services of any attorney not part of the PSC to perform any common benefit work, provided the attorney so consents and is bound by the PSC's compensation structure. Mr. Leopold shall perform other necessary PSC administrative and logistical functions and carry out any other duty as the Court may order.

II. Appointment of Plaintiffs' Steering Committee. The Court designates the following counsel as members of the Plaintiffs' Steering Committee (PSC):

Russell D. Paul
Berger Montague, PC
1818 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103
Phone: (215) 875-3000
Fax: (215) 875-4604
Email: rpaul@bm.net

Melissa L. Troutner
Kessler Topaz Meltzer & Check, LLP
280 King of Prussia Road
Radnor, Pennsylvania 19087
Phone: (610) 667-7706
Fax: (610) 667-7056
Email: mtroutner@ktmc.com

Mark A. Ozzello
Capstone Law, APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Phone: (310) 556-4811
Fax: (310) 943-0396
Email: Mark.Ozzello@capstonelawyers.com

E. Powell Miller
The Miller Law Firm
950 West University Drive, Suite 300
Rochester, Michigan 48307
Phone: (248) 841-2200
Fax: (248) 652-2852
Email: epm@millerlawpc.com

Steven Calamusa
Gordon & Partners, PA
4114 Northlake Boulevard
Palm Beach Gardens, FL 33410
Phone: (561) 799-5070
Fax: (561) 799-4050

The PSC is responsible for creating its own structure, including establishing subcommittees, subject to the Court's approval. The Court recognizes that changes to the PSC's organization may be necessary as the litigation progresses and new details emerge.

III. Appointment of Liaison Counsel. The Court designates the following counsel as plaintiffs' Liaison Counsel:

Michael L. Pitt
Pitt McGehee Palmer & Rivers, PC
117 West Fourth Street, Suite 200
Royal Oak, MI 48067
Phone: (248) 398-9800
Fax: (248) 268-7996
Email: mpitt@pittlawpc.com

IV. Terms of Appointment. The appointments of Lead and Liaison Counsel and the PSC are personal to the individual attorney appointed. Although the Court has considered PSC members' resources and expects they will draw upon their firms and co-counsel to assist them with their duties, each member is personally responsible for his or her duties. The Court may add or replace members upon request from the PSC, or on its own motion, if and as circumstances warrant.

It is intended and expected by the Court that, as to all matters common to the coordinated cases, and to the fullest extent consistent with the independent fiduciary obligations owed by any and all plaintiffs' counsel to their clients and any putative class, pretrial proceedings shall be conducted by and through the PSC.

The Court will make the final determination as to the compensation and reimbursement of plaintiffs' counsel. All time keepers carrying out work for the plaintiffs' common benefit, including PSC members, who may look to any common fund or agreement for reimbursement or compensation shall maintain detailed and contemporaneous time records. The Court will provide further details in a subsequent Order.

V. Duties of Lead Counsel. Lead Counsel, in consultation with the PSC as appropriate, shall do the following:

- Establish and maintain a depository for orders, pleadings, hearing transcripts, and all documents served upon plaintiffs' counsel, and make such papers available to plaintiffs' counsel upon reasonable request;
- Maintain in conjunction with their accountant records of receipts and disbursements advanced by PSC members and received by the PSC and report in writing to the PSC concerning disbursements and receipts;
- Coordinate the initiation and conduct of discovery on behalf of all plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery or any other subsequent order of this Court;

- Designate counsel to schedule depositions, set agendas and otherwise interact with defense counsel, various plaintiffs' counsel, and the settlement master (if one is appointed);
- Determine (after consultation with other members of the PSC and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the plaintiffs on all matters arising during pretrial proceedings;
- Conduct settlement negotiations on behalf of plaintiffs, but not enter binding agreements except to the extent expressly authorized;
- Delegate specific tasks to other counsel in a matter to ensure that pretrial preparation for the plaintiffs is conducted effectively, efficiently, and economically;
- Enter into stipulations, with opposing counsel, necessary for the conduct of the litigation;
- Prepare and distribute to the parties periodic status reports;
- Maintain adequate time and disbursement records covering service of designated counsel and enforce guidelines approved by the Court as to the keeping of time records and expenses;
- Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- Perform such other duties as may be incidental to proper coordination of the plaintiffs' pretrial activities or authorized by further Order of the Court; and
- Submit, if appropriate, suggestions for establishing additional committees and counsel for designation by the Court.

Counsel for plaintiffs who have individual or divergent positions because of the status of

their clients may present written and oral argument with leave of the Court and provided that in doing so they do not repeat arguments, questions, or actions of the Lead Counsel.

VI. Duties of Liaison Counsel. Liaison Counsel shall do the following:

- Maintain and distribute to co-counsel, to defendant's counsel, and to the Court an up-to-date service list regularly;
- Receive and, as appropriate, distribute to co-counsel Orders from the Court and documents from opposing parties and counsel;
- Assist in the coordination of activities, discovery, meetings and hearings and assist in resolving scheduling conflicts among the parties; and

- Coordinate, as appropriate, the pretrial activities in this proceeding with parallel state court litigation and any other federal litigation involving the product defects alleged in master the complaint to be filed in this case.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Date: September 26, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on September 26, 2019.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI