

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

<p>MIRIAM MICHELLE MENDOZA,</p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">vs.</p> <p>GENERAL MOTORS LLC, GENERAL MOTORS CORPORATION, CHEVROLET DIVISION OF GENERAL MOTORS, MOTORS LIQUIDATION COMPANY, AND DOES 1 TO 15,</p> <p style="text-align:center">Defendants.</p>	<p>Case No. 1:16-cv-00967-LJO-JLT</p> <p>ORDER GRANTING STIPULATION REGARDING PLAINTIFF’S WITHDRAWAL OF CERTAIN CLAIMS (Doc. 53)</p>
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[PROPOSED] ORDER RE STIPULATION REGARDING VOLUNTARY WITHDRAWAL OF CERTAIN CLAIMS AND REQUESTS FOR DAMAGES IN PLAINTIFF'S FIRST AMENDED COMPLAINT

Having considered the parties’ Stipulation Regarding Voluntary Withdrawal of Certain Claims and Requests for Damages in Plaintiff’s First Amended Complaint;

Good cause appearing, the Court ORDERS the parties’ Stipulation is hereby granted as follows:

(1) Subject to the additional terms set forth below, Plaintiff hereby dismisses her claim for punitive damages and all claims based on malice, fraud and/or oppression in this case. Said dismissal shall be without prejudice. Plaintiff agrees that page 5 of Plaintiff’s First Amended Complaint, the “Exemplary Damages Attachment” is deemed deleted and withdrawn.

(2) Plaintiff agrees to this dismissal of her claim for punitive damages and all claims based on malice, fraud and/or oppression because the claims and requests for damages set forth in paragraph 1 hereof are presently barred and precluded by rulings issued by the United States

Bankruptcy Court for the Southern District of New York [“Bankruptcy Court”] in *In re General Motors Corp., et al.*, Debtors, Chap. 11 Case No. 09-50026.

(3) Rulings of the Bankruptcy Court which are the subject of the parties’ Stipulation are, among others, (i) the Sale Order and Injunction entered by the Bankruptcy Court on July 5, 2009, (ii) the *Memorandum Opinion and Order Deciding Certain 2016 Threshold Issues* entered by the Bankruptcy Court on July 12, 2017 (“July 2017 Opinion”), and (iii) the *Memorandum Opinion And Order Enforcing Provisions Of Sale Order Regarding Assumption Of Liability Of Product Liability Claims Of Kaitlyn Reichwaldt* entered by the Bankruptcy Court on August 31, 2017 (“August 2017 Opinion”). The rulings of the Bankruptcy Court held, among other things, that (a) “Post-Closing Accident Plaintiffs may not assert claims against New GM for punitive damages based on conduct of Old GM.” (July 2017 Opinion), and (b) plaintiffs on notice of a December 13, 2016 Order to Show Cause (“December 2016 Show Cause Order”) are bound by the rulings in the July 2017 Opinion (August 2017 Opinion). Certain rulings of the Bankruptcy Court are presently on appeal by other plaintiffs. With respect to any potential reversal or substantial modification on appeal of rulings of the Bankruptcy Court that are entered prior to entry of final judgment in Plaintiff’s case, Plaintiff shall be treated the same as all plaintiffs who, like the Plaintiff herein, were on notice of the December 2016 Show Cause Order and did not appeal the rulings applicable thereto.

(4) Defendant New GM acknowledges that, pursuant to the Sale Order and Injunction and the Sale Agreement that it approved, Defendant New GM assumed “Product Liabilities” (as defined in the Sale Agreement, as amended) for post-bankruptcy sale accidents. Plaintiff’s claims in this case for compensatory damages based on strict liability, negligence and breach of

warranty are not barred by the Sale Order and Injunction or other Bankruptcy Court ruling, provided, however, New GM disputes that it is liable for such claims and requests for damages.

(5) Plaintiff agrees that, going forward, she (a) will distinguish between General Motors Corporation (“Old GM,” n/k/a Motors Liquidation Co.) and General Motors LLC (New GM), and (b) will not allege that New GM manufactured or designed the Old GM vehicle or performed other conduct related to an Old GM vehicle.

IT IS SO ORDERED.

Dated: January 30, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE