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UNITED STATES DISTRICT COURT
Northern District of California

DON LAU,

Plaintiff,

v.

MERCEDES-BENZ USA LLC,

Defendant.

No. C 11-01940 MEJ

**ORDER RE MOTIONS IN LIMINE
AND SETTING FURTHER PRETRIAL
DEADLINES**

On December 13, 2012, the Court held a pretrial conference in this matter, at which time Plaintiff Don Lau and Defendant Mercedes-Banz presented argument on their respective motions in limine. (Dkt. Nos. 45, 52). The Court now issues the following rulings and sets further deadlines for this matter.

With respect to Defendant's motion in limine seeking to exclude testimony from Plaintiff's proffered expert, Daniel Calef, the Court **DENIES** the motion **WITHOUT PREJUDICE** to Defendant reasserting its motion following Defendant's deposition of Mr. Calef on December 28, 2012.

As to Plaintiff's motion in limine seeking to preclude Defendant from introducing evidence that Plaintiff has made prior claims pursuant to the Song-Beverly Consumer Warranty Act and has had other cars repurchased, the Court **GRANTS** Plaintiff's motion as follows: Defendant may proffer such evidence for impeachment purposes only, subject to any other valid objections.

At the hearing, Defendant for the first time raised an issue relating to Plaintiff's failure to respond to a special interrogatory seeking information about the number of vehicles Plaintiff owned or had registered in corporate names on certain dates. Defendant explained that the answer to the interrogatory may affect whether the vehicle qualifies as a consumer good under the statute, and thus

1 whether Plaintiff has standing to bring his claim. While the Court queries why Defendant waited
2 until a pretrial conference to seek what essentially should have been done as a motion to compel
3 before the close of discovery, the Court agrees with Defendant that Plaintiff has failed to articulate
4 any justification for failing to timely respond to this interrogatory. The Court therefore **ORDERS**
5 Plaintiff to serve his response to the interrogatory no later than December 20, 2012. Defendant shall
6 have until January 4, 2013, to file a brief raising any challenges to Plaintiff's standing under the
7 statute based on such information. Plaintiff's response shall be due no later than January 7, 2013.

8 The Court **FURTHER ORDERS** that the parties will have 8 hours each to try this case,
9 which includes opening and closing statements, as well as cross-examination.

10 The Court **FURTHER ORDERS** that the parties shall appear for an emergency settlement
11 conference before January 10, 2013. The parties will be advised of the date and settlement judge by
12 separate order.

13 **IT IS SO ORDERED.**

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15 Dated: December 13, 2012

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18 Maria-Elena James
19 Chief United States Magistrate Judge
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