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18 UNITED STATES DISTRICT COURT  
 19 NORTHERN DISTRICT OF CALIFORNIA  
 20 SAN FRANCISCO DIVISION

22 IN RE  
 23 MYFORD TOUCH CONSUMER  
 LITIGATION  
 24  
 25  
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No. 3-13-cv-3072-EMC  
**JOINT CASE MANAGEMENT  
 STATEMENT**  
  
 Date: August 14, 2014  
 Time: 10:30 A.M.  
 Courtroom: 5, 17<sup>th</sup> Floor  
 Judge: Hon. Edward M. Chen

1 **I. INTRODUCTORY STATEMENT**

2 Pursuant to the Court’s Minute Entry (Dkt. No. 99) and the Standing Order for  
3 all Judges of the Northern District of California, counsel for the parties respectfully  
4 submit this Updated Joint Case Management Statement. This is the fifth Case  
5 Management Statement; four previous statements were filed with the Court on  
6 October 3, 2013 (Dkt. No. 33); January 16, 2014 (Dkt. No. 58); April 17, 2014 (Dkt.  
7 No. 82); and June 5, 2014 (Dkt. No. 98). This Updated Joint Case Management  
8 Statement is intended to inform the Court on the status of the pleadings and discovery,  
9 and to request a postponement of the case management conference by sixty (60) days  
10 until October 14, 2014.

11 **II. JOINT CASE MANAGEMENT STATEMENT**

12 **A. Motions**

13 On January 13, 2014 Ford filed its Motion to Dismiss (Dkt. No. 56). Plaintiffs  
14 filed a Memorandum in Opposition on February 21, 2014 (Dkt. No. 69) and Ford filed  
15 its Reply on March 14, 2014 (Dkt. No. 72). On May 30, 2014 this Court rendered a  
16 decision granting in part and denying in part Ford’s Motion to Dismiss (Dkt. No. 97).  
17 Plaintiffs will not amend the First Amended Complaint (FAC) and will proceed based  
18 on the surviving claims. On June 16, 2014, Plaintiff Megan Raney-Aarons filed a  
19 notice of voluntarily dismissal (Dkt. No. 100). Defendant Ford filed an Answer to the  
20 FAC on July 18, 2014 (Dkt. No. 106).

21 **III. STATUS OF DISCOVERY**

22 As previously reported (*see* Dkt. No. 98), the parties participated in a Rule 26(f)  
23 conference and exchanged their initial disclosures, pursuant to Rule 26(a).

24 **A. Production Agreements**

25 The parties have agreed upon the format of production, including Electronically  
26 Stored Information (“ESI”) protocols. The parties have also negotiated a general  
27 protective order, which this Court ordered on May 16, 2014 (Dkt. No. 96). The parties  
28

1 are in the final phases of negotiating a second protective order that would pertain to  
2 highly confidential information, such as source code data.

3 **B. Productions**

4 Ford has so far produced more than 437,500 pages of emails and documents  
5 from 13 custodians and more than 246,000 pages of documents from Ford's warranty  
6 reimbursement and technical contact databases. Ford will continue its rolling  
7 production. To date, Ford has made the following productions:

- 8 • Documents pertaining to the named Plaintiffs' vehicles and warranty  
9 history (04/03/2014);
- 10 • Showroom brochures, owners' manuals, and warranty guides  
11 (04/15/2014);
- 12 • Additional showroom brochures, owners' manuals, and warranty guides,  
13 as well as print/video advertising (5/22/2014);
- 14 • Special Service Messages and Technical Service Bulletins (5/27/2014);
- 15 • Email and other documents maintained by Document Custodian J. Bragg  
16 (5/30/2014);
- 17 • Email and other documents maintained by Document Custodian B. Krein  
18 (6/5/2014);
- 19 • Email and other documents maintained by Document Custodian S.  
20 Parsons (6/13/2014);
- 21 • Email and other documents maintained by Document Custodian R.  
22 Englert (7/3/2014);
- 23 • Ford warranty reimbursement records/data (AWS reports) and technical  
24 contacts (CQIS reports) (6/19/2014 and 7/16/2014);
- 25 • Email and other documents maintained by Document Custodians N.  
26 Gabrielli and M. Schanerberger (7/22/2014); and
- 27 • Email and other documents maintained by Document Custodians H.  
28 Ahmed; K. Christianson; H. Elzein; F. Frischmuth; M. Fromman; K.  
Goebel; J. Green (8/5/2014).

Since June 5, 2014 Plaintiffs have made two productions in response to Ford's  
discovery requests. The first production was made on June 27, 2014 and the second

1 production was made on July 29, 2014. A third production is scheduled for August  
2 2014 and Plaintiffs will continue to make supplemental productions as soon as  
3 practicable. Non-Party, Microsoft Corporation, also made a production on June 24,  
4 2014.

5 On July 28, 2014 Plaintiff Avedisian served his Supplemental Responses and  
6 Objections to Ford's First Set of Interrogatories. Plaintiffs also informed Ford on July  
7 28, 2014 that Plaintiffs Zuchowski, Battle and Ervin intend to serve interrogatory  
8 responses as soon as practicable. For various personal reasons, Plaintiffs have not been  
9 able to locate information responsive to all of Ford's discovery requests. Plaintiffs  
10 have stated that they intend to produce these interrogatory responses by August 31,  
11 2014.

### 12 **C. Plaintiffs' Second Set of Requests for Production**

13 On February 26, 2014, Plaintiffs served Ford with a Second Set of Requests for  
14 Production of Documents. The documents requested relate to press reports suggesting  
15 that Ford will base the next generation of MFT systems on Blackberry's QNX  
16 software, and include any communications with Blackberry regarding the Microsoft-  
17 based MFT system, as well as, any documents that reflect key differences in properties  
18 between Blackberry's QNX and Microsoft's MFT systems. On April 1, 2014 Ford  
19 served its Responses and Objections to Plaintiffs' Second Set of Requests for  
20 Production of Documents. On May 27, 2014 Ford communicated that it intends to  
21 stand on its objections of relevancy and burden, but will make an effort to keep  
22 looking for responsive documents. Plaintiffs continue to believe that the Second Set of  
23 Requests for Production of Documents seeks relevant documents that the collection  
24 and production of which would impose no unusual burden upon Ford. Ford does not  
25 believe that the documents sought are relevant because they seek information  
26 concerning Ford's on-going commercial and business relationships with its suppliers  
27 pertaining to future model year vehicles and technology that is not installed in any  
28

1 current Ford or Lincoln production vehicle, nor is it installed in any putative Subject  
2 Vehicle. The parties have met and conferred in person and multiple times by telephone  
3 and email. Unfortunately, however, the parties have been unable to resolve this issue  
4 at this time. While the parties are hopeful that an agreement will be reached soon, they  
5 also anticipate that motion practice may be required to resolve this dispute.

6 **D. Vehicle Inspection Protocol**

7 The parties are in the final phases of negotiating a Vehicle Inspection Protocol  
8 which shall apply to any and all Class Vehicles owned or leased by any Named  
9 Plaintiff in this action at the time the Protocol is executed.

10 The parties will continue to work cooperatively to ensure the efficient and  
11 timely exchange of documents and do not believe there are any disputes that require  
12 the Court's assistance at this time.

13 **IV. POSTPONEMENT OF CASE MANAGEMENT CONFERENCE**

14 As noted above, the parties are nearing an agreement regarding the production  
15 of highly confidential information, such as source code data. Experts will then be  
16 provided with an opportunity to review this type of information and their findings will  
17 provide considerable guidance to all parties regarding the scheduling of a full motion  
18 and trial schedule. As such, all parties request postponing the Case Management  
19 Conference by sixty (60) days, to October 14, 2014 on the grounds of prematurity. All  
20 parties anticipate that they will be able to provide the Court with a full discovery and  
21 trial schedule by October 2014.

1 DATED: August 7, 2014

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2 By           /s/ Steve W. Berman          

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