

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**JAMES BLEDSOE, *et al.*,**  
individually and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

**FCA US LLC,** a Delaware  
corporation, and

**CUMMINS INC.,** an Indiana  
corporation,

Defendants.

**4:16-CV-14024-TGB-RSW**

**CASE MANAGEMENT  
ORDER REGARDING  
MATTERS DISCUSSED AT  
THE JULY 6, 2022 STATUS  
CONFERENCE**

At a status conference held using Zoom teleconferencing technology on July 6, 2022, the Court convened all parties to discuss scheduling and other matters. As stated during the status conference, the Court now orders as follows:

**Amended Complaint**

In its March 31, 2022 Order, this Court dismissed five named plaintiffs against FCA because their claims were barred by a superseding bankruptcy court sale order. ECF No. 215. In supplemental briefing directed by the Court, Plaintiffs have asked for leave to amend to add replacements for these named plaintiffs. ECF

No. 238. In the interest of fairness and justice, the Court will permit Plaintiffs to amend their complaint to propose new class representatives to replace the dismissed plaintiffs, for its state law claims in California, Idaho, South Carolina, Michigan, and Texas (“dismissed states”) against FCA only. Plaintiffs will file their amended complaint on or before **July 20, 2022**, in accordance with the guidelines discussed on the record at the status conference.

Plaintiffs’ amended complaint is limited to adding new Plaintiffs who are advancing the same state law claims and theories of liability against FCA as those who were dismissed. Consequently, no additional motions to dismiss will be filed regarding the amended complaint.

### **Discovery**

Parties are entitled to limited discovery with respect to new Plaintiffs for a period of 60 days. In an effort to expedite discovery, Plaintiffs will provide full disclosures regarding new named Plaintiffs to the extent possible by, or on **July 20, 2022**. The period of additional discovery regarding the new plaintiffs closes on **September 20, 2022**.

### **Schedule Regarding Pending Motions**

#### *Plaintiffs’ Motion for Class Certification*

Because the class representatives will be different in the amended Complaint, Plaintiffs are directed to withdraw the pending motions for class certification (ECF Nos. 183, 184). Plaintiff’s will file a new motion for class certification. Although during the status conference the Court

proposed having the renewed motion for class certification filed within 60 days of the date that the amended complaint is filed, the Court believes it would be more efficient and better for case management to delay the date of the filing of the renewed motion for class certification until 30 days after the Court issues its order resolving the pending motions for summary judgment. ECF Nos. 218, 221.

*Defendants' Motions for Summary Judgment*

The Court will rule on Defendants' pending motions for summary judgment, (ECF Nos. 218, 221), before addressing the issue of class certification. Oral argument for motions for summary judgment is scheduled for **August 31, 2022 at 10 a.m. in person.**

If information is gathered during the discovery period concerning the new Plaintiffs that support additional grounds pertaining to Defendants' summary judgment arguments, Defendants may submit supplemental briefing addressing those grounds within 14 days following oral argument, or by **September 14, 2022.** In such supplemental briefing, Defendants may also address any legal grounds addressing the validity of the claims of the new plaintiffs.

*Motions Regarding Expert Testimony*

*Daubert* Motions (ECF Nos. 192, 194, 203, 217, 219) will be decided without oral argument. If not decided in advance of the oral argument on the summary judgment motions, the parties may address the impact they

believe their arguments on the admissibility of expert testimony have on the question of summary judgment.

### **Appointment of Special Master**

The Court intends to appoint a special master pursuant to Fed. R. Civ. P. 53 to handle certain matters in this litigation. Rule 53(a)(1)(C) permits the Court to appoint a special master to “address pretrial and posttrial matters that cannot be effectively and timely addressed by an available district judge or magistrate judge of the district.”

The special master will handle the following areas of the litigation:

1. Assisting the Court and the parties in case management issues;
2. Reviewing motions and submitting reports and recommendations;
3. Communicating with the parties to foster efficient case management;
4. Discovery matters as needed;
5. Mediation and settlement as needed.
6. Other duties as will be specified in subsequent orders.

Pursuant to Rule 53(b)(1), the Court announced its intention to appoint Attorney Todd Mendel of Barris, Sott, Denn & Driker, P.L.L.C. as a special master in this litigation. Any party to this litigation with alternative suggestions for a special master, potential reasons for Mr.

Mendel's disqualification, or other objections must file a written objection setting forth the basis and supporting facts within seven (7) days of this Order.

**Upcoming Dates**

1. Plaintiffs' Third Consolidated Amended Complaint to add new class representatives is due July 20, 2022.
2. Oral argument for motions for summary judgment will be held on August 31, 2022 at 10 A.M.
3. Plaintiffs' Amended Motion for Certification will be due within 30 days after the date that the Court decides the summary judgment motions. Defendants' briefs and Plaintiffs' responses due in accordance with L.R. 7.1.
4. Defendants' supplemental briefing for motions for summary judgment are due September 14, 2022. Plaintiffs' responses are due in accordance with L.R. 7.1.

**IT IS SO ORDERED.**

Dated: July 11, 2022

s/Terrence G. Berg

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TERRENCE G. BERG

UNITED STATES DISTRICT JUDGE