

KING & SPALDING LLP
1185 Avenue of the Americas
New York, New York 10036
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Arthur Steinberg, Esq.
Scott Davidson, Esq.

Counsel to General Motors LLC

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re:	: Chapter 11
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	: Case No.: 09-50026 (MG)
f/k/a General Motors Corp., <i>et al.</i>	: (Jointly Administered)
Debtors.	:
-----X	

**RESPONSE BY GENERAL MOTORS LLC TO
THE PLEADING FILED BY ROBERT CARDEW [ECF NO. 14534]**

General Motors LLC (“**New GM**”), by its undersigned counsel, hereby submits this response (“**Response**”) to (i) the pleading (“**Cardew Pleading**”) filed by Robert Cardew (“**Mr. Cardew**”) with this Court on June 13, 2019 [ECF No. 14534],¹ and (ii) the Court’s *Order Directing Response From General Motors LLC to Filing by Robert Cardew (ECF Doc. # 14534)*, dated June 20, 2019 [ECF No. 14538] (“**Scheduling Order**”).

1. The Court’s Scheduling Order directed that New GM “specifically address whether Cardew may proceed with his litigation claims against New GM arising from the facts alleged in Cardew’s filing, and, if not, why not.”

¹ It is unclear from a review of the Cardew Pleading what specific relief is sought. This Response will address the pertinent questions raised in the Cardew Pleading, and the issues raised in the Scheduling Order.

2. As New GM previously explained to Mr. Cardew, New GM did assume, pursuant to a sale agreement approved by the Bankruptcy Court in July 2009 (“**Sale Agreement**”), compensatory damages for Product Liabilities (defined in the Sale Agreement) arising from accidents occurring after the Sale (as herein defined) that involve Old GM motor vehicles. Therefore, Mr. Cardew can proceed with claims for compensatory damages against New GM arising from his alleged post-Sale accident involving a 2008 Chevrolet Express Van. However, New GM also previously explained to Mr. Cardew that based on the terms of the Sale Agreement and this Court’s prior rulings, he cannot pursue claims for punitive damages against New GM based on Old GM conduct.

3. New GM previously directed Mr. Cardew to New GM’s third-party claims administrator so that he can file an informal claim against New GM. Mr. Cardew has done so, and that claim process is underway. Mr. Cardew already has been provided with the information he needs to proceed with his claims against New GM.

RELEVANT BACKGROUND

4. Mr. Cardew has asserted that he was involved in an accident on May 1, 2017 involving a 2008 Chevrolet Express Van. He thereafter commenced a lawsuit (“**Cardew Lawsuit**”) against “Motors Liquidation Company, f/k/a General Motors Corporation” (“**Old GM**”) in the Supreme Court for the State of New York, County of Wyoming (“**State Court**”) and allegedly served Old GM with his complaint (“**Cardew Complaint**”). See Cardew Pleading, at ¶¶ 3-6. New GM was not a named defendant or otherwise a party in the Cardew Lawsuit.

5. Mr. Cardew further asserts that Old GM defaulted in answering the Cardew Complaint, a default judgment was granted, and an inquest was scheduled by the State Court.

See Cardew Pleading, at ¶ 8. However, prior to the inquest taking place, the State Court entered a Decision and Order, dated March 1, 2019 (“**State Court Order**”), wherein it noted that Old GM is the debtor in a pending bankruptcy case, Mr. Cardew’s claims are subject to the automatic stay, and the default judgment previously granted was void *ab initio*. See Cardew Pleading, Exh. D. The State Court postponed the inquest indefinitely and stayed the Cardew Lawsuit until “further order of the Court.” *Id.*

6. Upon receipt of the State Court Order, Mr. Cardew wrote this Court a letter, dated March 25, 2019 [ECF No. 14478] (“**Cardew March 25 Letter**”), wherein he asked several questions regarding the Old GM bankruptcy case, the applicability of the automatic stay and what procedures to follow. At the direction of the Court, on April 16, 2019, counsel for New GM responded by letter (“**New GM April 16 Letter**”) to the Cardew March 25 Letter, informing Mr. Cardew that (i) King & Splading LLP (“**K&S**”) represents New GM, which was the entity that purchased assets and assumed certain liabilities from Old GM in a sale (“**Sale**”) approved by the Bankruptcy Court in July 2009, (ii) Old GM—the entity named as the defendant in the Cardew Lawsuit—dissolved in December 2011, whereupon its assets and liabilities were transferred to the Motors Liquidation Company General Unsecured Creditors Trust (“**GUC Trust**”), and (iii) Drinker Biddle and Reath LLP represents the GUC Trust (who was copied on the New GM April 16 Letter”); contact information for counsel for the GUC Trust was also provided. See Cardew Pleading, at Exh. F.

7. On April 19, 2019, counsel for New GM received a letter directly from Mr. Cardew dated April 15, 2019 (“**Cardew April 15 Letter**”),² wherein he asked again certain of the same questions raised in the Cardew March 25 Letter (*e.g.*, whether the automatic stay with

² A copy of the Cardew April 15 Letter is attached hereto as **Exhibit “A.”**

respect to the Old GM bankruptcy case was in effect and certain procedural questions). By letter dated April 22, 2019 (“**New GM April 22 Letter**”), counsel for New GM responded to the Cardew April 15 Letter, informing Mr. Cardew that (i) K&S represents New GM and does not represented Old GM (the entity he sued), (ii) Old GM dissolved in December 2011, and again provided contact information for counsel for the GUC Trust, (iii) K&S does not represent Mr. Cardew and cannot give him legal advice,³ and (iv) New GM did assume compensatory damages (but not punitive damages) for Product Liabilities arising from accidents that occurred after the closing of the Sale that involved Old GM motor vehicles. *See* Cardew Pleading, at Exh. G. Also, in the New GM April 22 Letter, counsel for New GM directed Mr. Cardew to counsel for the GUC Trust with respect to his questions regarding the Old GM bankruptcy case and the automatic stay. *Id.*

8. Counsel for New GM received another letter from Mr. Cardew on May 6, 2019 (dated April 29, 2019) (“**Cardew April 29 Letter**”).⁴ In the Cardew April 29 Letter, Mr. Cardew raised certain issues regarding Old GM’s dissolution. In addition, Mr. Cardew again asked questions regarding the automatic stay, and if he could “file a claim with the company instead of a lawsuit because of the bankruptcy.” By letter dated May 9, 2019 (“**New GM May 9 Letter**”),⁵ counsel for New GM responded to the Cardew April 29 Letter, providing him with the certificate of dissolution for Old GM (“**Old GM Dissolution Certificate**”). With respect to the questions regarding the automatic stay, New GM again directed Mr. Cardew to counsel for the GUC Trust. Counsel for New GM also informed Mr. Cardew that if he wanted to pursue an

³ In response to the Cardew March 25 Letter, this Court similarly informed Mr. Cardew that it could not provide legal advice and respond to his questions. *See* Cardew Pleading, Exh. E.

⁴ A copy of the Cardew April 29 Letter is attached hereto as **Exhibit “B.”**

⁵ A copy of the New GM May 9 Letter is attached hereto as **Exhibit “C.”**

informal claim against New GM, he could contact New GM's third-party claims administrator, ESIS/GM Claims Unit ("**ESIS**"); contact information for ESIS was provided.⁶

9. Mr. Cardew thereafter sent ESIS a letter, dated May 17, 2019 ("**Cardew May 17 Letter**")⁷ asking for the "proper paperwork" to file a claim. By letter dated May 30, 2019 ("**ESIS May 30 Letter**")⁸ ESIS acknowledged receipt of Mr. Cardew's claim, stated that it was undertaking an investigation of his claim, and requested various documents and information. By letter dated June 10, 2019 ("**Cardew June 10 Letter**")⁹ Mr. Cardew submitted to ESIS a "Statement of Claim Against General Motors LLC."

RESPONSE TO CARDEW PLEADING

10. The questions raised in the Cardew Pleading have been previously answered by New GM in the letters attached to the Cardew Pleading and to this Response.

11. New GM has consistently informed Mr. Cardew that New GM did agree to assume compensatory damages (but *not* punitive damages¹⁰) for Product Liabilities arising from accidents occurring after the Sale that involve Old GM motor vehicles. New GM also directed Mr. Cardew to its third party claims administrator, ESIS, so that he could file a claim against New GM. Mr. Cardew has done so. ESIS has acknowledged the filing of Mr. Cardew's claim, and that claim is presently being investigated.

⁶ In both the New GM May 9 Letter and the New GM April 22 Letter, New GM informed Mr. Cardew that, while it agreed to assume compensatory damages for Product Liabilities, it did not (as this Court has previously found) assume punitive damages related to such claims. In addition, New GM expressly stated in both letters that while it agreed to assume Product Liabilities, that does not mean it is liable on such claims and expressly reserved its rights to contest such claims.

⁷ A copy of the Cardew May 17 Letter is attached hereto as **Exhibit "D."**

⁸ A copy of the ESIS May 30 Letter is attached hereto as **Exhibit "E."**

⁹ A copy of the Cardew June 10 Letter is attached hereto as **Exhibit "F."** The Cardew June 10 Letter is not attached to the Cardew Pleading.

¹⁰ See, e.g., *In re Motors Liquidation Co.*, 571 B.R. 565, 580 (Bankr. S.D.N.Y. 2017) ("Post-Closing Accident Plaintiffs may not assert claims against New GM for punitive damages based on conduct of Old GM."); *In re Motors Liquidation Co.*, 576 B.R. 313, 323-24 (Bankr. S.D.N.Y. 2017) (same).

12. At this point, there is nothing further for this Court to do in this matter.

Dated: New York, New York
July 11, 2019

KING & SPALDING LLP

By: /s/ Arthur Steinberg
Arthur Steinberg
Scott Davidson
1185 Avenue of the Americas
New York, NY 10036
(212) 556-2100

Counsel to General Motors LLC

Exhibit A

April 15, 2019

Mr. Arthur Steinberg
Attorney at Law
King & Spaulding LLP
1185 Avenue of the Americas
New York, New York 10036

Re: Motors Liquidation Company f/k/a General Motors Corporation
S.D.N.Y. Bankruptcy Court No. 09-50026(MG)

Dear Mr. Steinberg:

A review of recent court decisions show that you represent the above-referenced company in its bankruptcy proceeding.

On May 1, 2017, I was severely injured in a 2008 Chevrolet 3500 van manufactured by GM and according to the bankruptcy the new company is liable for injury and death of individuals from products manufactured by General Motors.

What I would like to know is if the automatic stay relating to the bankruptcy proceeding is still in force under section 362 of the Bankruptcy Code and if so, does the automatic stay apply to personal injury lawsuits or not?

I would also like to know if I have to file a motion with the court for a waiver of the automatic stay, who is the attorney for the above that I serve it on since your office is not the only law office representing the company.

I would also like to know if the automatic stay provisions apply since the bankruptcy started in 2009 and my injuries occurred in 2017 and is there a way for me to file a claim in the bankruptcy for my injuries instead of a lawsuit?

I do not know anything about bankruptcy proceedings but it is on our computer system in our law library so I have been trying to find out how to do this without filing a motion in federal bankruptcy court.

Thank you for your time and consideration in this matter.

Sincerely,



Robert Cardew
82-C-0739
Five Points Correctional Facility
6600 State Route 96, P.O. Box 119
Romulus, New York 14541-0119

Exhibit B

April 29, 2019

Page 1 of 2

Mr. Scott Davidson
Attorney at Law
King & Spaulding LLP
1185 Avenue of the Americas
New York, New York 10036-4003

Re: In re Motors Liquidation Company
Case No. 09-50026(MG)

Your Letter of April 16, 2019

Dear Mr. Davidson:

In your letter you asked me to call you if I have any questions. However, I am in prison and have been since 1982.

For your information, in New York State people in prison cannot just make a telephone call to anyone they want. A person on the outside has to open a special account and prepay for it to allow someone to call them. Attorneys, etc., are required to contact the facility the person is in and make arrangements so that the attorney can call the facility at a specific time and the facility will have the inmate in a specific place to receive the telephone call.

Your letter states that Motors Liquidation Company was dissolved in 2011. However, the New York State Department of State told me in writing in 2017, and again on February 27, 2018, that old GM is known as Motors Liquidation Company f/k/a General Motors Corporation located at 300 Renaissance Center, Detroit, Michigan 48265 and that the registered agent for service of process is CT Corporation System, 111 Eighth Avenue, New York, New York 10011. (See Department of State website dos.ny.gov).

How come if this company was dissolved it was still being registered every year as Motors Liquidation Company and not General Motors LLC and/or Motors Liquidation Company General Unsecured Creditors Trust with the New York State Department of State? That is why I filed my lawsuit against Motors Liquidation Company.

Now your letter also gives me the name of "Motors Liquidation Company General Unsecured Creditors Trust." So now I have four different names for the same company and which name do I use in a lawsuit or do I put all four names on it? I did title my lawsuit in state court as "Motors Liquidation Company f/k/a General Motors Corporation." Since I do not know if this name is any good I do not know if I have to file a new lawsuit or not and everything in this is totally confusing to me. Also, I do not know who the registered agent for service of process is either for these other names.

Page 2 of 2

Therefore, I may have to submit a motion in the above-referenced matter in the court to have the judge address these issues, especially since I do not know if the automatic stay is still in effect or not and if so, when does the statute of limitations start because of it since I have until May 1, 2020, before the normal statute of limitations runs out.

Has the automatic stay been lifted? If so, when was it lifted and if not, when will it be lifted?

Can I file a claim with the company instead of a lawsuit because of the bankruptcy? I wrote the court for information and was given telephone numbers by the court clerk I cannot call and no information.

On April 3, 2017, I had open heart surgery for Aortic Valve replacement and other things and on May 1, 2019, this area of my chest was injured because of being in a 2008 Chevrolet Express 3500 van. I have VIN number, copy of registration and bill of sale of van to registered owner and other information of van.

I am bound and determined to litigate a lawsuit because I do know that the new company is responsible for physical injury or death relating to old GM's products so the new company is liable in that respect according to the bankruptcy proceeding.

I also do know how to litigate in federal and state court and do discovery, etc., if I cannot obtain an attorney to represent me.

Therefore, what information can be provided to me or should I file a motion in court and have the court tell me?

Your letter references sending a copy of my letter to Mr. Going at Drinker Biddle & Reath LLP. However, I still have not been contacted by anyone from this law office.

Thank you for your time and consideration in this matter.

Sincerely,



Robert Cardew
82-C-0739
Five Points Correctional Facility
6600 State Route 96, P.O. Box 119
Romulus, New York 14541-0119

Exhibit C

KING & SPALDING

King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036-4003

Tel: (212) 556-2100
Fax: (212) 556-2222
www.kslaw.com
Scott Davidson
Direct Dial: 212-556-2164
sdavidson@kslaw.com

May 9, 2019

Mr. Robert Cardew
82-C-0739
Five Points Correctional Facility
6600 State Route 96
P.O. Box 119
Romulus, New York 14541-0119

**Re: *In re Motors Liquidation Company*
Case No. 09-50026 (MG)**

Response to Letter dated April 29, 2019

Dear Mr. Cardew:

This letter is in response to your letter dated April 29, 2019. As stated in my previous letter to you dated April 22, 2019, King & Spalding LLP is counsel for General Motors LLC ("**GM LLC**"). King & Spalding does not represent, and has never represented Motors Liquidation Company, f/k/a General Motors Corporation ("**Old GM**").

Consistent with my April 22 letter, Old GM did dissolve in December 2011. See attached Certificate of Dissolution of Motors Liquidation Company, dated December 15, 2011. The entity that is winding down the Old GM bankruptcy estate is the Motors Liquidation Company General Unsecured Creditors Trust ("**MLC GUC Trust**"). In your letter, you again raise a number of questions regarding the Old GM bankruptcy case and the application of the automatic stay. As stated in my April 22 letter, those questions should be directed to the MLC GUC Trust, and its counsel, Kristen Going, Esq., Drinker Biddle & Reath LLP, 1177 Avenue of the Americas, 41st Floor, New York, New York 10036-2714.

Please also note again that King & Spalding does not represent you and, therefore, it cannot give you legal advice. If you would like to pursue a claim against GM LLC, without filing a formal lawsuit, for compensatory damages arising from an alleged accident involving an Old GM vehicle that took place on May 1, 2017 ("**May 2017 Accident**"), you can submit a claim to ESIS/GM Claims Unit, 300 Renaissance Center, MC 482-C19-B61, Detroit, MI 48265-3000. Please note, however, this does not mean GM LLC is agreeing to be liable on such claim, and GM LLC reserves the right to contest any claim you may submit.

Mr. Robert Cardew
May 9, 2019
Page 2

Please also note that, as stated in my April 22 letter, while GM LLC agreed to assume compensatory damages for Product Liabilities (if ultimately proven), the Bankruptcy Court has found on a number of occasions that GM LLC did not assume punitive damages based on Old GM conduct. *See, e.g., In re Motors Liquidation Co.*, 571 B.R. 565, 580 (Bankr. S.D.N.Y. 2017) (“Post-Closing Accident Plaintiffs may not assert claims against New GM for punitive damages based on conduct of Old GM.”); *In re Motors Liquidation Co.*, 576 B.R. 313, 323-24 (Bankr. S.D.N.Y. 2017) (same). Accordingly, you cannot seek punitive damages against GM LLC based on Old GM conduct in connection with the May 2017 Accident.

Very truly yours,



Scott Davidson

SD/hs

Delaware

PAGE 1

The First State

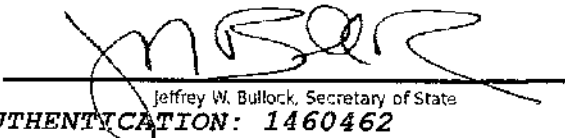
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF DISSOLUTION OF "MOTORS LIQUIDATION
COMPANY", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF DECEMBER,
A.D. 2011, AT 7:38 O'CLOCK P.M.



0056825 8100

140848397

You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 1460462

DATE: 06-17-14

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:38 PM 12/15/2011
FILED 07:38 PM 12/15/2011
SRV 111300277 - 0056825 FILE

CERTIFICATE OF DISSOLUTION
OF

MOTORS LIQUIDATION COMPANY

(Pursuant to Section 275 of the Delaware General Corporation Law)

December 15, 2011

Motors Liquidation Company (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware ("DGCL"), **DOES HEREBY CERTIFY:**

FIRST: The name of the Corporation is Motors Liquidation Company.

SECOND: The date of the filing of the Corporation's original Certificate of Incorporation with the Secretary of State of Delaware was October 13, 1916.

THIRD: The date the dissolution was authorized is March 29, 2011.

FORTH: On June 1, 2009, the Corporation, together with certain of its affiliates, filed voluntary petitions for relief under chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") (jointly administered proceedings, *In re Motors Liquidation Company, et al.*, Ch. 11 Case Number 09-50026). This Certificate of Dissolution herein certified has been duly adopted in accordance with the provisions of Sections 275 and 303 of the General Corporation Law of the State of Delaware (the "DGCL"), pursuant to the authority granted to the Corporation under Section 303 of the DGCL to put into effect and carry out the transactions contemplated by that certain Debtors' Second Amended Joint Chapter 11 Plan, filed with the Bankruptcy Court on March 18, 2011, as amended, by the Corporation and certain of its affiliates, and as confirmed on March 29, 2011 by order (the "Order") of the Bankruptcy Court. Provision for dissolving the Corporation and for executing and filing this Certificate of Dissolution is contained in the Order of the Bankruptcy Court having jurisdiction under the Bankruptcy Code.

FIFTH: The names and addresses of the directors of the Corporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Albert A. Koch	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075
Alan Johnson	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075
James Holden	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075

The names and addresses of the officers of the Corporation are as follows:

<u>NAME</u>	<u>OFFICE</u>	<u>ADDRESS</u>
Albert A. Koch	President	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075
Ted Stenger	Executive Vice President	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075
Brian Rosenthal	Vice President	c/o AlixPartners LLP, 2000 Town Center, Suite 2400, Southfield Michigan 48075

SIXTH: The dissolution will become effective upon the filing of this Certificate of Dissolution with the Secretary of State of the State of Delaware.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Dissolution as of the date first set forth above.

MOTORS LIQUIDATION COMPANY

By: 
Name: Albert A. Koeh
Title: President & Chief Executive Officer

Exhibit D

RECEIVED

MAY 20 2019

May 17, 2019

ESIS/GM Claims Unit
300 Renaissance Center
MC-482-C19-B61
Detroit, Michigan 48625-3000

ESIS-GM CLAIMS UNIT

Dear Sir/Madam:

Mr. Scott Davidson of King & Spaulding LLP, 1185 Avenue of the Americas, New York, New York 10036-4003, who is legal counsel in New York State for General Motors LLC, requested that I contact your office for proper paperwork to file a personal injury claim against your company concerning injuries I received in a 2008 Chevrolet Express 3500 vehicle.

Therefore, please provide me with the proper paperwork that I would need to file a personal injury claim.

Thank you very much.

Sincerely,



Robert Cardew
82-C-0739
Five Points Correctional Facility
6600 State Route 96, P.O. Box 119
Romulus, New York 14541-0119

Exhibit E

ESIS®

ESIS/GM Central Claims Unit
P.O. Box 300
Mail Code 482 C19 B61
Detroit, MI 48265-3000

800.888.0164 *tel*
313-221-9932 *fax*

ESIS Claim Rep 312
Claims Administrator

May 30, 2019

Robert Cardew
Inmate# 82-C-0739
Five Points Correctional Facility
6600 State Rt 96
P.O. Box 119
Romulus, NY 14541

RE: Claimant: Robert Cardew
 Our File No.: 921135
 Our Client: General Motors LLC
 Date/Event: May 1, 2017
 Subject vehicle: 2008 Chevrolet Express 3500
 VIN: Unknown

Dear Mr. Robert Cardew:

We are the third-party administrators on behalf of General Motors LLC (GM) for matters involving allegations of product liability. I am the Claims Administrator assigned to this file.

ESIS is undertaking an investigation of your claim on behalf of GM. Conducting this investigation and responding to your claim is not a waiver of any defense that GM may have to your claim. GM expressly reserves its right to assert any defense. In undertaking to investigate your claim, ESIS and GM make no promise, representation, or statement that either will make any payment of your claim and ESIS and GM expressly reserve the right, in their discretion, to deny your claim and make no payment.

In that regard, I am in receipt of your correspondence to GM concerning your injuries. Your correspondence alleges that you sustained bodily injuries as a result of a manufacturer's product defect. However, insufficient technical documentation was provided relative to any alleged defect. Due to this fact, the following information and documentation are respectfully requested:

1. A copy of the police and/or fire report.
2. A detailed statement of the event and parties involved. This should include events prior to and immediately following the incident.
3. Advise of the vehicle owner contact information along with a VIN.
4. Provide copies of all medical records or complete the enclosed medical authorization form.
5. Provide color copies of injuries sustained.

6. Provide any information relevant to your claim and clarification of your allegation in relation to how the vehicle contributed to the injuries sustained.

As soon as the requested information has been received, a technical evaluation of this matter will be completed. Upon the conclusion of our evaluation, I will contact you with our position.

Also, you have the obligation and responsibility to ensure that the subject vehicle and its related components are maintained and preserved in their post-event condition for so long as you intend to pursue a claim and/or cause of action. If you choose to dispose of the salvage, it will be to your own peril and spoliation may become an issue. We will be unable to determine if a physical inspection of the subject vehicle would be necessary until we have had the opportunity to thoroughly evaluate your supporting technical documentation.

Sincerely,

ESISClaimRep312@GM.com
Claims Administrator

Exhibit F

June 10, 2019

Page 1 of 3

Claimant: Robert Cardew
82-C-0739
Five Points Correctional Facility
6600 State Route 96, P.O. Box 119
Romulus, New York 14541-0119

Re: Claim Number: ~~921135~~ 921135
Claims Administrator: ESIS Claim Rep 312
ESIS File No.: 921135
ESIS Client: General Motors LLC
Date/Event: May 1, 2017
Subject Vehicle: 2008 Chevrolet Express 3500 Van
VIN: 1GAHG39K581167537

STATEMENT OF CLAIM AGAINST GENERAL MOTORS LLC

1. On May 1, 2017, at approximately 10:30 a.m., while at Watertown Correctional Facility, 23147 Swan Road, Watertown, New York 13601-9340, I was seated in the second row passenger seat (not counting the driver's seat or seat on the right of the driver), of a 2008 Chevrolet Express 3500 Van, VIN #1GAHG39K581167537, which is owned by the State of New York Department of Corrections and Community Supervision (DOCCS) under New York State License Plate 08-196, assigned DOCCS van number RVW 68 and located at DOCCS Riverview Correctional Facility, 1110 Tibbits Drive, Ogdensburg, New York 13669-0158. This van was purchased from Hoselton Auto Mall, 909 Fairport Road, Rochester, New York 14445, sold by salesman Richard R. Perry, Salesman Number 72585, was sold on January 18, 2008, Car Deal Number 24165, Stock Number 08C1466F, Invoice Number 08C1466F and DOCCS customer number was 125090 and DOCCS Purchase Order Number A077137.

2. While sitting in this van I had to sit sideways with my feet and legs down in the doorwell of the passenger side double doors and had been this way for over an hour since their was insufficient leg room for me to sit facing forwards because I am six feet five inches tall. This improper seating and leg room caused my leg muscles to become severely cramped so it would be hard for me to walk and step down out of the said van.

3. Prior to being placed in the back of said van, on April 3, 2017, I had open heart surgery where I had Aortic Valve Replacement and I was not allowed to do anything that would cause injury to my chest area where the surgery took place for at least one year because my breathebone was stapled together with surgical staples. I was also medically precluded from pushing/pulling/lifting more than ten pounds of force on my chest area.

4. Said van was parked in front of the doorway to the DOCCS Watertown Correctional Facility Draft Processing Building where I was required to exit said van to be transferred to another van to continue on a medical trip to the DOCCS Walsh Regional Medical Unit located at DOCCS Mohawk Correctional Facility

Claimant: Robert Cardew
Claim Number: 921135

Page 2 of 3

located at 6100 School Road, Rome, New York where I was scheduled to see a cardiologist and a medical specialist from Central New York Cardiology located in the Marion Professional Medical Building on the St. Elizabeth's Hospital Grounds, Genesee Street, Utica, New York, who were going to check my Pacemaker and medical condition after having the open heart surgery.

5. I could not exit said van facing forwards since I would have to bend over to about an eighty degree angle while balancing myself because of the low ceiling height of said van and being unable to hold onto anything since there were no hand holds and no steps except for a narrow running board narrower than the soles of my boots so I had to step out of said van backwards.

6. While exiting the van backwards while bent over to about an eighty degree angle, and with nothing to hold onto since no hand holds were available, when I stepped out onto the running board I slipped and fell sideways onto the blacktop so I fell onto my left side cutting my left arm and elbow area open and the shock of landing on my left side compressing my chest area where I had previously had open heart surgery causing me intense pain.

7. This incident took place in front of DOCCS Riverview Correctional Facility Corrections Officers C. Hewko and M. Giglio who were transporting me from DOCCS Gouverneur Correctional Facility to Watertown Correctional Facility.

8. I was taken to the DOCCS Watertown Correctional Facility Infirmary where DOCCS Registered Nurse B. Baker told me that they could not do anything about my chest pain because I was not experiencing a heart attack and since I was on my way to see a cardiologist to have this doctor look at my chest and treated my for bleeding on my arm and elbow and make out an accident report for my left arm and elbow injuries only.

9. When I arrived at DOCCS Walsh Regional Medical Unit after a two hour trip the cardiologist I was scheduled to see found that the surgical scar from my open heart surgery had opened up and fluids were coming out of it where there were not there before I fell out of said van.

10. On May 3, 2017, I went to sick call at DOCCS Gouverneur Correctional Facility Infirmary located at 112 Scotch Settlement Road, Gouverneur, New York 13482-0480, because I was still having chest pains and fluids were still coming out of my chest area where I had open heart surgery and was prescribed Keflex and Cephalexin medications.

11. On May 4, 2017, I was seen by DOCCS Gouverneur Correctional Facility Doctor Robert Kasulke who was my primary care provider and chest X-rays were taken of my chest and compared to the previous X-rays of my chest taken on April 30, 2017. My April 30, 2017, X-rays showed no abnormalities and since Dr. Kasulke did not like what he saw on my May 4, 2017 X-rays, he made arrangements for an unscheduled emergency medical trip for me to see the doctor who

Claimant: Robert Cardew
Claim Number: 921135

Page 3 of 3

performed my open heart surgery on April 3, 2017.

12. On May 5, 2017, I was taken to see Doctor Ann Cahill at the Marion Professional Medical Building located on the St. Elizabeth's Hospital Campus, Genesee Street, Utica, New York, where Doctor Cahill told me that I must have racked my chest when I fell. In other words, my fall caused both sides of my rib cage attached to my breastbone that is stapled together to move against one another injuring this area.


13. Dr. Cahill instructed me not to do anything else to injure this area and since none of the staples holding my chest together were broken or pulled out, the best thing to do was leave it alone and I would have to endure the pain.

14. On May 16, 2017, I was again taken to see Dr. Cahill to have her check my chest area to see if anything needed to be done from my fall out of the Chevrolet Express 3500 van.

15. I believe that General Motors LLC f/k/a General Motors Corporation and its agents, subordinates, officers, servants and/or licence's were intentionally negligent, careless and reckless in defectively designing and manufacturing the aforesaid Chevrolet Express 3500 van, VIN #1GAHG39K581167537, allowing it to become and remain in a dangerous, hazardous and defective condition constituting a trap, nuisance and hazard which was a direct result of my injuries because it had insufficient headroom, hand holds and steps to allow someone to enter/exit through the passenger side double door area which was the proximate cause of the injuries I sustained as described herein and in the documents attached hereto.

16. Therefore, I demand payment in the amount of One-Million (\$1,000,000.00) Dollars compensatory damages for my pain, suffering and injuries.

Respectfully submitted,


Robert Cardew
82-C-0739
Five Points Correctional Facility
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