

**Objection Deadline:**  
**Reply Deadline:**  
**Hearing Date and Time:**

**KING & SPALDING LLP**

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*Attorneys for General Motors LLC*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<i>In re:</i>	:	Chapter 11
	:	
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	:	
f/k/a General Motors Corp., <i>et al.</i>	:	Case No.: 09-50026 (MG)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	
	:	
MOTORS LIQUIDATION COMPANY AVOIDANCE	:	
ACTION TRUST, by and through the Wilmington Trust	:	
Company, solely in its capacity as Trust Administrator	:	Adversary Proceeding
and Trustee,	:	No. 09-00504 (MG)
	:	
Plaintiff,	:	
-against-	:	
	:	
JPMORGAN CHASE BANK, N.A. <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

**MOTION OF GENERAL MOTORS LLC  
FOR APPROVAL OF STIPULATION AND ORDER PERMITTING DEFENDANTS  
TO FILE AN AMENDED PRE-TRIAL BRIEF AND  
KEEPING ORIGINAL BRIEF UNDER SEAL**

General Motors LLC (f/k/a General Motors Company) (“**New GM**”), by its counsel, pursuant to the Court’s current protective orders, submits this motion (“**Motion**”) for an order directing that the original version of the Defendants’ Pre-Trial Brief remain under seal and that instead, Defendants be permitted to file in the public record an amended Pre-Trial Brief which resolves the request that New GM would have otherwise made to seal limited language in the Defendants original version of their Pre-Trial Brief. The Defendants have agreed to file an amended Pre-Trial Brief which resolves New GM’s confidentiality and sealing concerns.

Defendants and New GM have had a number of “meet and confers” regarding New GM’s concerns with lifting the protective order related to certain issues in the Defendants’ Pre-Trial Brief. An agreement was reached that would allow Defendants to file an amended Pre-Trial Brief, subject to this Court’s approval. That amended Brief would supersede Defendants’ original Pre-Trial Brief. If the Court desires to see the difference between the original version and the amended brief, a “red-lined” version will promptly be provided to the Court, though New GM and Defendants request that the comparison of the two briefs be sealed in the same manner as the original Pre-Trial Brief.

Both New GM and Defendants believe it would be an inefficient use of judicial and other resources for New GM to file a brief relating to Defendants’ original Pre-Trial Brief that would no longer be operative if the Court grants the relief requested. Accordingly, New GM requests, with the consent of Defendants’ counsel as indicated below, that the Court enter the attached order granting the relief requested.

### **JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction to determine this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is

proper pursuant to 28 U.S.C. § 1409. The predicate for the relief requested is Sections 105 and 107 of the Bankruptcy Code and Bankruptcy Rules 7026 and 9018.

### **BACKGROUND**

2. On August 17, 2015, the Court entered an *Order Regarding Discovery and Scheduling* (ECF No. 153), setting forth the schedule for discovery in this above-captioned adversary proceeding (“**Action**”). On April 18, 2016, the Court entered the *Amended Agreed Protective Order* (ECF No. 489) (“**Amended Agreed Protective Order**”), which governs discovery provided by and to all parties and non-parties in the Action.

3. On May 4, 2016, the Court entered an *Order Amending the August 17, 2015 “Order Regarding Discovery and Scheduling” To Provide For Proceedings Concerning Characterization and Valuation of Representative Assets* (ECF No. 547), setting discovery and motion deadlines for additional proceedings addressing the Collateral Identification Issues and Valuation Principles Issues (as defined in the May 4, 2016 Order) with respect to 40 representative assets selected by the parties (“**Representative Assets**”). On December 2, 2016, the Court entered an *Order Amending and Superseding Certain Prior Order Regarding Discovery and Scheduling* (ECF No. 805) (“**December 2, 2016 Order**”), setting a schedule for trial on the Representative Assets.

4. In March 2017, in accordance with the December 2, 2016 Order and the *Stipulation and Order Permitting the Parties to File Pre-Trial Briefs Under Seal* (ECF No. 863) (“**March 8, 2017 Stipulation and Order**”): (i) the Plaintiff filed its pre-trial brief under seal with the Court pursuant to the Amended Agreed Protective Order (“**Plaintiff’s Pre-trial Brief**”); and (ii) Defendant JPMorgan Chase Bank, N.A., together with the Defendants’ Steering

Committee, filed its joint pre-trial brief under seal with the Court pursuant to the Amended Agreed Protective Order (“**Defendants’ Pre-trial Brief**”).

5. In accordance with the March 8, 2017 Stipulation and Order, New GM was served with a redacted copy of the Defendants’ Pre-trial Brief on March 10, 2017 and an un-redacted Plaintiff’s Pre-trial Brief on March 13, 2017. Plaintiff also sent New GM all the motions in *limine* it filed. These submissions provided notice to New GM of certain of the non-public information disclosures and allegations that are the subject of this Motion and the agreement with the Defendants.

6. Pursuant to the March 8, 2017 Stipulation and Order, the deadline for any party, or third party, to file a motion to seal some or all of the Pre-trial Briefs was March 20, 2017. The parties agreed to the extension of the deadline for New GM to file motions to seal from March 20, 2017 to March 24, 2017. On March 20, 2017, the Court approved the extension request pursuant to the *Stipulation and Order Extending Time for General Motors LLC and KPMG LLP to Filed Motions to Seal Some or All of the Pre-Trial Briefs* (ECF No. 888).

7. Since that time, New GM has had a number of “meet and confer” discussions with the Defendants that have resulted in a resolution where Defendants agreed to file an amended Pre-trial Brief as a substitute for its original Brief, which amended Brief would be filed of public record. This agreement results in filings consistent with both Sections 107(a) and (b) of the Bankruptcy Code and protects information of and statements relating to non-party New GM about its confidential information. The Plaintiff’s Pre-trial Brief does not have these issues and its Pre-trial Brief is unaffected by the relief requested and can be filed of public record.

8. Both New GM and Defendants believe it would be an inefficient use of judicial and other resources for New GM to file a brief relating to Defendants’ original Pre-Trial Brief that

would no longer be operative if the Court grants the relief requested. Accordingly, New GM requests, with the consent of Defendants' counsel, that the Court enter the attached order granting the relief requested.

WHEREFORE, New GM, with the consent of the Defendants, requests that the Court enter the Proposed Order and grant such other and further relief as is required.

Dated: New York, New York  
March 24, 2017

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 SOUTHERN DISTRICT OF NEW YORK**

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Plaintiff,	: :
-against-	: :
	: :
JPMORGAN CHASE BANK, N.A. <i>et al.</i> ,	: :
	: :
Defendants.	: :
	: :

**ORDER GRANTING MOTION OF GENERAL MOTORS LLC  
 FOR APPROVAL OF STIPULATION AND ORDER PERMITTING DEFENDANTS  
 TO FILE AN AMENDED PRE-TRIAL BRIEF AND  
KEEPING ORIGINAL BRIEF UNDER SEAL**

Upon the motion dated March 24, 2017 (the “**Motion**”) of General Motors LLC (f/k/a General Motors Company) (“**New GM**”), by and through its undersigned counsel, with the consent of the Defendants, seeking entry of an order permitting Defendants to file an amended Pre-trial Brief in the public record and the Defendants’ original pre-trial Brief will remain sealed, pending further order of the Court; and it appearing that the relief requested in the Motion is appropriate, it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that Defendant JPMorgan Chase Bank, N.A. (together with the Defendants' Steering Committee) are permitted to file an amended Pre-trial Brief, as a substitute for their original Brief, in the public record; and it is further

ORDERED that the defendants' original Pre-trial Brief remains under seal until further order of the Court; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Order is without prejudice to the rights of any party in interest or the United States Trustee to seek to unseal the Defendants' original Pre-trial Brief, or any part of it.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2017  
New York, New York

*/s/*  
\_\_\_\_\_  
MARTIN GLENN  
United States Bankruptcy Judge

Dated: New York, New York  
March 24, 2017

New York, New York  
March 24, 2017

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Products Inc., Loan Funding XI LLC,  
Deutsche Bank AG, Deutsche Bank AG  
Cayman Islands Branch, Goldman Sachs –  
Lending Partners LLC, Goldman Sachs –  
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Ltd., Marathon CLO II Ltd., Marathon  
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Funding Inc., Muzinich &  
Company (Ireland) Ltd. for the Account of  
Muzinich Loan Fund Plus (f/k/a Muzinich &  
Company (Ireland) Ltd. for the Account of  
Extra Yield \$ Loan Fund), and The Royal  
Bank of Scotland plc*