

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

IN RE DURAMAX DIESEL LITIGATION

Case No. 17-11661

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

**ORDER DENYING DEFENDANT GM'S UNOPPOSED MOTION FOR A STAY OR A
STATUS CONFERENCE BUT PROVIDING ALTERNATIVE RELIEF BY
EXTENDING THE SCHEDULING ORDER**

On April 6, 2020, Plaintiffs and Defendants submitted a stipulation and proposed order to modify the case management order that was rejected due to insufficient explanation. ECF No. 169. On April 13, 2020 Defendant GM filed an unopposed motion to stay dates until at least May 15, 2020 or, in the alternative, for a status conference. ECF No. 173. On April 14, 2020, Defendants Robert Bosch GmbH and Robert Bosch LLC filed a notice of joinder/concurrence in GM's motion. ECF No. 174.

The United States is without question facing an unprecedented challenge with the novel coronavirus pandemic. The Governor of Michigan explained that “[t]he novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.” E.O. 2020-21. The Governor has issued a “Stay Home, Stay Safe” order which closed all non-essential businesses and requires Michigan residents to stay home, unless they are essential workers, or meet certain exceptions. *Id.* Michigan has the fourth highest number of cases of COVID-19 in

the nation. *Coronavirus in the U.S.: Latest Map and Case Count*, The New York Times, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last updated Apr. 14, 2020).

GM's concerns break down into two categories – 1) the need for additional time to depose Ash, Henderson, Roberts, and Stanley and 2) Defendants inability to complete document production by the discovery deadline. First, GM explains that while this Court's previous order allowing Plaintiffs depositions by the end of May "would be feasible under normal circumstances, [it] is impractical under the present conditions." ECF No. 173 at PageID.10222. Clearly GM is correct in suggesting that "[t]he logistical hurdles of taking the[] depositions remotely are significant." However, many sectors of society are being forced to adapt to remote work and communication challenges. Accordingly, the Court's order regarding the dates for depositions of Ash, Henderson, Roberts, and Stanley will remain unchanged. *See* ECF No. 170. The depositions will not involve complicated subjects and should be accomplished in a relatively short period of time.

Second, GM explains that

staff normally dedicated to working on document collection, review, and production have been diverted to other tasks and forced to stay at home during the COVID-19 pandemic. Further, the databases that house the documents to be searched and produced have been temporarily shut down, making further productions by GM technically impossible within the current time frame. ECF No. 173 at PageID.10223-10224.

GM further provides that expert disclosures cannot be made before discovery is completed and discovery will not be completed by April 20, 2020. Although the requested relief of a stay will be denied, some relief is appropriate. Therefore, the scheduling order will be extended four weeks moving the discovery cut-off from April 20 to May 11, 2020 and adjusting the balance of the dates accordingly.

Accordingly, it is **ORDERED** that GM's Motion to Stay Deadlines or Schedule a Status Conference, ECF No. 173, is **DENIED**.

It is further **ORDERED** that the scheduling order is amended as follows:

Discovery Cut-off:	May 11, 2020
Plaintiffs' Expert Disclosures completed by:	June 15, 2020
Depositions of Plaintiffs' Experts scheduled:	June 16, 2020 – July 28, 2020
Defendants' Expert Disclosures completed by:	July 29, 2020
Depositions of Defendants' Experts scheduled:	July 30, 2020 – Sept. 1, 2020
Summary Judgment/Daubert Motions due by:	October 30, 2020

It is further **ORDERED** that the parties are **DIRECTED** to meet and confer to discuss if a further extension of the scheduling order is warranted. The parties are further **DIRECTED** to submit a joint proposed amended scheduling order thru utilities on or before **May 11, 2020** detailing their rationale for any additional proposed extension together with their proposed new dates.

Dated: April 16, 2020

s/Thomas L. Ludington
 THOMAS L. LUDINGTON
 United States District Judge