

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

IN RE NEW MOTOR VEHICLES]	
CANADIAN EXPORT ANTITRUST]	MDL DOCKET No. 1532
LITIGATION]	

REPORT OF TELEPHONE CONFERENCE

HELD AT PORTLAND, MAINE ON TUESDAY, AUGUST 21, 2007, AT 11:30 A.M.

PRESIDING: D. BROCK HORNBY, UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFFS:	Joseph J. Tabacco, Jr. Todd A. Seaver Michael M. Buchman Robert S. Frank
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FOR DEFENDANT NISSAN NORTH AMERICA, INC.:	Joshua Lipton
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FOR NON-SETTLING DEFENDANTS:	Clifford H. Ruprecht
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I conducted a telephone conference of counsel at counsel's request. With the exception of Nissan, the parties seek an extension of deadlines on two grounds: (1) the need to devote attention to the expedited briefing schedule that the First Circuit established when it granted the defendants' Rule 23(f) appeal of my class certification orders; (2) the plaintiffs' need for more time to study the reports of defendants' experts and take depositions, given that the defendants have listed 11 experts and stated that at least a majority of them will issue reports. Nissan objects to the extension on the basis that there are abundant legal resources to deal with the appeal issues and continue apace with the schedule

previously established; and that Nissan, maintaining it should never been sued in the first place, suffers increased prejudice with each delay. Nissan also requests oral argument and a prompt decision on its pending motion for sanctions and, if any extension is granted, leave to file a motion for summary judgment in advance of the schedule.

Nissan's request for oral argument is **DENIED**. Although it is my practice routinely to grant oral argument when requested, I have already devoted many hours to Nissan's motion and drafted an opinion, on which my law clerks now are working. To schedule oral argument now would not only disrupt the time investment already made, but also delay decision on the motion.

I explained during the conference that I would grant a modest extension but not the total amount requested. The First Circuit's decision to hear the 23(f) appeal is no surprise, and the issues are already well developed through the motion practice in this court. But some accommodation is appropriate in light of the expedited appellate briefing schedule. I also allow some extra time to the plaintiffs in light of the number of defense experts and uncertainty which will file reports. As a result, the joint request for extension is **GRANTED IN PART**, setting due dates as follows:

- | | |
|---|-------------------|
| 1. Defendants' expert reports | October 26, 2007 |
| 2. Plaintiffs' reply expert reports | December 21, 2007 |
| 3. Close of expert discovery | January 25, 2008 |
| 4. Summary judgment/ <u>Daubert</u> motions | February 7, 2008 |
| 5. Oppositions to same | April 4, 2008 |
| 6. Replies to same | May 9, 2008 |

7. Oral argument/hearings on same July, August or court's discretion

Nissan's request for an earlier summary judgment motion is **DENIED**. The schedule is full enough.

SO ORDERED.

DATED THIS 21ST DAY OF AUGUST, 2007

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 2:03-MD-1532-DBH**

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