

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Edward M. Chen, Judge

IN RE: CHRYSLER-DODGE-JEEP)
ECODIESEL MARKETING, SALES) NO. C 17-02777 EMC
PRACTICES, AND PRODUCTS)
LIABILITY LITIGATION,) San Francisco, California
) Tuesday, April 10, 2018

TRANSCRIPT OF PROCEEDINGS

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17

18 Also Present: Kenneth Feinberg, Special Master

19

20 Appearances According to the "Confirmed Telephonic Appearance
21 Schedule":

22 Leslie Allen
23 Megan B. Bradley
24 Kathryn P. Caballero
25 David Shepardson
David Stellings
Mike Spector

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1 Tuesday - April 10, 2018

2:36 p.m.

2 P R O C E E D I N G S

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4 **THE COURT:** Calling Case 17-MD-2777, In Re:
5 Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and
6 Products Liability Litigation. Counsel, please come to the
7 podium and state your name for the Record.

8 **MR. GIUFFRA:** I don't like that juror.

9 **MS. CABRASER:** Good afternoon, Your Honor.

10 **THE COURT:** You've got to make -- patch some people
11 in by telephone, so Betty's about to do that.

12 **MS. CABRASER:** Okay.

13 (Pause in proceedings.)

14 (Discussion off the record.)

15 **THE CLERK:** Would counsel please come -- go ahead.

16 **THE COURT:** All right. Counsel, if you could make
17 your appearances, please.

18 **MS. CABRASER:** Good afternoon, Your Honor.

19 Elizabeth Cabraser, from Lief Cabraser Heimann & Bernstein,
20 Plaintiffs' Lead Counsel. And with me this afternoon from
21 Lief Cabraser are Kevin Budner, and Wilson Dunlavey.

22 **MS. RENDÉ:** Good afternoon, Your Honor. Leigh Rendé,
23 with United States, along with co-counsel, Joe Warren.

24 **THE COURT:** Thank you, Ms. Rendé.

25 **MS. FIORENTINI:** Good afternoon, Your Honor.

1 Judith Fiorentini on behalf of the California Attorney
2 General's Office, and the California Air Resources Board.

3 **THE COURT:** Thank you, Ms. Fiorentini.

4 **MR. GIUFFRA:** Good afternoon, Your Honor,
5 Robert Giuffra from Sullivan Cromwell here for the FCA
6 Defendants. I'm here with my partner, Darrell Cafasso. Good
7 to see you.

8 **MR. SLATER:** Good afternoon, Your Honor.
9 Matthew Slater, of Cleary Gottlieb, on behalf of Robert Bosch
10 GmbH, and Robert Bosch, LLC.

11 **THE COURT:** All right. Thank you, Mr. Slater.

12 **SPECIAL MASTER FEINBERG:** Good afternoon, Your Honor.
13 Kenneth Feinberg, Court-appointed Settlement Master in this
14 matter.

15 **THE COURT:** All right. Thank you, Mr. Feinberg. You
16 might as well stay at the podium. Let me first take your
17 report or update.

18 **SPECIAL MASTER FEINBERG:** My report is as follows,
19 Your Honor. The parties -- all of them -- extremely
20 cooperative in an effort to reach a comprehensive settlement in
21 this matter. Ms. Cabraser and the PSC, very cooperative in
22 responding to requests by the Settlement Master to meet, along
23 with CARB and the California AG's Office. Mr. Giuffra and Fiat
24 Chrysler always available, as needed, as is Mr. Slater, on
25 behalf of Bosch. So everybody is cooperating.

1 It's fair to say that the ongoing settlement discussions
2 between the Governments -- State and Federal -- and Fiat
3 Chrysler are proceeding on a rather swift pace. Documents have
4 been exchanged, redlined. Communication ongoing. Three more
5 dates in late April and/or early May set to reconvene in
6 Washington do continue these very, I think, efficient and
7 helpful negotiations; a tribute, really, to Government counsel
8 and Fiat Chrysler.

9 Similarly, Mr. Slater and the PSC have exchanged documents
10 designed to advance settlement initiatives. We shall see where
11 we go with that, but there is a possibility that those
12 exchanged documents will help us move forward with settlement
13 discussions at that end.

14 The single biggest issue, I think -- and Ms. Cabraser can
15 speak for the PSC -- has been the reluctance so far, at least,
16 of Fiat Chrysler and the Government to exchange their latest
17 drafts with the PSC. From a purely settlement parochial
18 interest, it would be extremely helpful if sooner rather than
19 later those documents were exchanged. As yet they have not
20 been, but to the PSC's credit, they did, notwithstanding
21 absence of those documents -- did send a letter to the
22 Government and Fiat Chrysler, urging them in the context of
23 their ongoing drafting of a settlement document to take under
24 advisement the requests of the PSC to make sure their interests
25 appear; the PSC's interests are considered.

1 The other sort of delay that I see, as the Court probably
2 expected: There is still some uncertainty as to when the
3 testing protocol will be finalized and used as an important
4 pillar of any comprehensive agreement between the Government
5 and Fiat Chrysler.

6 So I would say the exchange of the drafted documents, the
7 uncertainty about the testing protocol, both of which --
8 Mr. Giuffra and Ms. Rendé can certainly comment; but overall, I
9 give all of the parties a high grade for trying to move this
10 forward. Totally cooperative in that sense. And it's a
11 settlement negotiation in progress.

12 Thank you, Your Honor.

13 **THE COURT:** All right. Thank you. That's very
14 helpful.

15 Let me get the parties to comment. Perhaps, Ms. Cabraser,
16 you could start off with the first issue that was identified by
17 Mr. Feinberg about the exchange -- or not -- of drafts, and the
18 PSC's letter.

19 **MS. CABRASER:** Yes. Thank you very much, Your Honor.
20 Elizabeth Cabraser, for plaintiffs.

21 We echo the Settlement Master's's remarks that, yes, it
22 would be extremely helpful in facilitating informed discussions
23 for the PSC settlement team to have access to the draft
24 documents that are exchanged between Fiat Chrysler Defendants,
25 and the Federal and State Government Defendants.

1 To that end, a month ago, on March 8th, we stipulated to
2 an additional Confidentiality Order. The Court approved it.
3 It's Document 288.

4 And while there certainly was no *quid pro quo* -- if we
5 sign the stipulation for confidentiality, we get the drafts; I
6 don't want to misrepresent that that is the case -- we thought
7 that it would be useful if the Government wanted an additional
8 assurance of confidentiality from us, that it should have it.

9 We also thought that it would be very useful for the
10 litigants, the class members, and the public to know and
11 understand that, of necessity, settlement discussions, drafts
12 of settlement documents are and must be confidential in most
13 cases, but especially in this one. And then, as always, it's
14 our intent to honor that.

15 Notwithstanding the fact that we have not had the drafts,
16 having been through similar negotiations before, and
17 understanding the concerns and the positions of the parties,
18 we're able to infer to a certain extent what is going on and
19 what is material. And to that end we did send a proposal with
20 respect to the consumers' needs and interests as to the
21 vehicles; mainly performance, warranties, other assurances.
22 Those were shared through the Settlement Master with the
23 defendants, the DOJ, and the California Attorney General.

24 We have also had general discussions with the California
25 Attorney General folks, because they also represent consumer

1 interests. We shared our warranty proposals with them.

2 It's always been our interest to be on the same page with
3 respect to anything that affects emissions, and also to be
4 consistent with anything that affects warranties.

5 We also just want to make sure, as settlement discussions
6 progress, that particularly with respect to warrantees and
7 other real-world protections, those reflect how these vehicles
8 are driven and used, and the consumer expectations of these
9 vehicles in the real world, because it's -- the real world is
10 what matters. And it will matter as to the success or failure
11 of any resolution.

12 So much of this is theory. We are not the EPA. So
13 emissions testing belongs to the Government agencies; but I
14 think, nonetheless, all of the provisions of all documents, of
15 any components of any comprehensive settlement, are better and
16 are best if they are informed by the interests and the concerns
17 and the real-world information we have from the use of the
18 vehicles.

19 So that's -- that is our request, to -- purely to
20 facilitate the settlement discussions in this matter.

21 **THE COURT:** And I think working assumption is that
22 any proposed settlement that is reached between the Government
23 and FCA would have to go through an approval process in this
24 court.

25 **MR. GIUFFRA:** (Nods.)

1 **MS. CABRASER:** That is our assumption, Your Honor.
2 The parties are all before you. You have the ongoing
3 jurisdiction over all of the cases. And to the extent that any
4 resolution affects the consumers' claims or their rights or
5 interests, or the vehicles that they currently own or lease,
6 yes, we would expect that it would require the approval of this
7 Court under a Rule 23-type standard.

8 And with that in mind, we think the earlier we are able to
9 design our settlement proposals and our settlement documents so
10 that they are not only consistent with and complementary to the
11 Government documents, but that they use the same terminology
12 and language, that makes everything more understandable and
13 more readily acceptable to the consumers.

14 **THE COURT:** Well, and it underscores the point that
15 at some point, you're going to need to look at, sooner or
16 later, the terms of the settlement reached, if there is such a
17 settlement, between the Government and FCA. And if it's not to
18 the PSC's liking, we're going to have to go through that whole
19 process at a later date, rather than a sooner date.

20 **MS. CABRASER:** That is correct, Your Honor. We'd
21 rather be part of the solution, rather than pointing out the
22 problems.

23 **THE COURT:** All right. Now let me hear from the
24 Government and from FCA your views on this question.

25 **MS. RENDÉ:** Your Honor, Leigh Rendé, for the

1 United States.

2 It is unusual. The United States does not typically
3 include third parties in its efforts to negotiate the terms of
4 Clean Air Act settlements.

5 The United States here is open to sharing information with
6 the PSC about the consumer-facing components of a Consent
7 Decree in this matter. Such information, we propose, would be
8 shared after the United States, California, and FCA agree on
9 the contents of those sections of the Consent Decree. And
10 those consumer-facing sections are among our priorities, in
11 terms of negotiations. And we're making good progress on them.

12 I would --

13 **THE COURT:** And maybe add some meat to the bones when
14 you say "consumer-related provisions." So what would those
15 cover? What would those be?

16 **MS. RENDE:** One potential example could be related to
17 consumer-facing recall; warranty provisions; things of that
18 nature.

19 And my understanding is that, as Ms. Cabraser has
20 mentioned, the PSC has been or is being folded into the
21 process, in that on Thursday evening the PSC did send us the
22 documents identifying its position on warranty and Lemon Law
23 provisions. The United States is reviewing those documents.

24 My understanding -- and Mr. Giuffra can speak to this more
25 fully, but my understanding is that FCA has shared information

1 with the PSC about the general consumer-facing topics in our
2 negotiations.

3 In addition -- and the CRT can speak more to this -- my
4 understanding is that the PSC and California are also in
5 frequent contact with each other regarding consumer-related
6 issues.

7 **THE COURT:** And the California Attorney General's
8 Office is part and parcel of these discussions with the FCA,
9 along with the EPA?

10 **MS. RENDÉ:** Correct.

11 **THE COURT:** All right. Maybe I should hear from
12 Ms. Fiorentini your views on what's happening in terms of
13 sharing of information, and your discussions with the PSC.

14 **MS. FIORENTINI:** Yes. Judith Fiorentini, for the
15 California Attorney General's Office, and the California Air
16 Resources Board.

17 We have been engaging in discussions and exchanges of
18 information with PSC on the consumer-related aspects of
19 potential settlement terms, and have been taking information
20 that the PSC has shared with us into consideration, and have
21 had general discussions with the PSC concerning those
22 consumer-facing pieces.

23 **THE COURT:** What is your view about actually
24 providing a draft or, at some point soon, a draft of the actual
25 language that's being negotiated as between the Government

1 agencies and the FCA; providing that to the PSC?

2 **MS. FIORENTINI:** At this point we're in alignment
3 with the United States and FCA that we think that that's
4 premature. Once we get closer to closer to an agreement, or at
5 least closer to deal points, then we would be able to share
6 some information with the PSC; but at this point, we think it's
7 too premature to do so.

8 **THE COURT:** And what's the thinking? Why is it
9 premature? If there's going to be -- I know the PSC is not a
10 party, per se, but they're obviously going to weigh in on any
11 settlement, as anybody else; but obviously they represent a
12 significant sector here. What's -- if they're going to be
13 involved at any point in any event, what's the down side? What
14 does it mean to be premature? What's the problem?

15 **MS. FIORENTINI:** Well, Your Honor, we view ourselves
16 as law-enforcement officers who are trying to get compliance
17 with the law. We look at our role as trying to get the
18 consumer relief that is the Attorney General's Office feels is
19 appropriate. And it is notprecedented that we engage in these
20 types of exchanges of information with third parties during
21 settlement discussions. It could open up, you know, a lot
22 of -- of problems if this is the way that we needed to operate
23 in all of our cases.

24 We are having discussions with the PSC where we are
25 exchanging information. And as we get closer to -- to deal

1 points and concepts, we think that we would be in a position to
2 be able to share that information then; but we just don't think
3 that it's appropriate at this time.

4 **THE COURT:** So how do you identify and when do you
5 think that point is when you will be able to, in your view,
6 share that information?

7 **MS. FIORENTINI:** The consumer-related pieces of the
8 settlement discussions that we've been engaging in is one of
9 our top priorities. And we are trying to land on those terms
10 as quickly as possible, so that we can be in a position to
11 share that information with the PSC.

12 **THE COURT:** Is it your view -- and I'll ask FCA its
13 views, as well -- that you have to have an agreement in
14 principle, close to an agreement, or a signed agreement before
15 you share? How far in the evolution?

16 **MS. FIORENTINI:** That's part of -- part of the issue,
17 Your Honor. I don't think we need to be at a point where we
18 have a signed agreement. I think we can have agreements in
19 principle on certain provisions of the Consent Decree, with the
20 understanding that those deal points may -- may fluctuate as
21 the rest of the deal is wrapped up; but I don't think we need
22 to wait until the point where we have a complete document on
23 all points before information can be shared with PSC.

24 **THE COURT:** And, of course, it's hard to predict how
25 quickly negotiations will reach any particular point.

1 What is your best guess, given the progress it has made
2 and that needs to be made? And without, of course, disclosing
3 that to me or anybody else. Is this something that is weeks
4 away? Months away? What are we looking at?

5 **MS. FIORENTINI:** I would say closer to months,
6 Your Honor. We are making significant progress. We're putting
7 in long hours, and working very hard to try to get closure on
8 issues as quickly as possible. We were in D.C. last week,
9 engaging in discussions.

10 We have three more dates -- tentative dates on calendar:
11 One at the end of April; two more meeting dates set up in May.
12 And we are trying to get this wrapped up as quickly as
13 possible.

14 It -- I can't predict when an agreement will land, but we
15 are making our best efforts to do so as quickly as possible.

16 **THE COURT:** All right. Thank you.

17 Let me get Fiat Chrysler's view.

18 **MR. GIUFFRA:** Good afternoon, Your Honor.

19 **THE COURT:** Good afternoon.

20 **MR. GIUFFRA:** Your Honor, our view would be that
21 the -- I agree fully with what the Government said. It would
22 be premature to actually hand drafts of documents that are
23 going back and forth between Government agencies and FCA with
24 private plaintiffs.

25 And let me just sort of provide a little bit of context.

1 Last week, Your Honor -- and obviously, you have a very
2 talented mediator working on this case -- I met with the PSC on
3 Thursday morning in Washington, D.C., for several hours. The
4 PSC provided us with a list of consumer-facing issues that they
5 were interested in, including warranties; how we would roll out
6 the -- the recall process.

7 And I went through each one of those issues with the PSC
8 in some detail, including talking about the lengths of
9 warranties. I did not share with the PSC the actual documents
10 with the words on the page, but the PSC certainly has a very
11 good idea as to where the negotiations stand on the
12 consumer-facing issues.

13 In addition, Your Honor, after we had our presentation,
14 after I met with the PSC, the PSC sent both sides, via
15 Mr. Feinberg, comments on consumer-facing issues. So the PSC
16 effectively has ample opportunity to make its views known.

17 Now, I think it's important to note that Fiat Chrysler has
18 to deal with its regulators. This is a regulatory issue, first
19 and foremost. We want to address other issues there are with
20 the vehicles; get the vehicles fixed. And we have, obviously,
21 responsibilities vis-à-vis our regulators.

22 What happens with the PSC, obviously, is important, as
23 well; but that's a secondary consideration -- our relationship
24 with them. So we have to deal with the first issue before we
25 get to the second issue.

1 And in the -- if the VW case, which a lot of people in
2 this room all worked on, I can assure the Court that the PSC
3 was not part of those settlement discussions while they were
4 going on. And, in fact, there's been more exchange of
5 information with the PSC in this case, than occurred in that
6 case.

7 From our perspective, we would be fully prepared, once we
8 came to an agreement in principle on language with California
9 and, obviously, with the DOJ and EPA, to share it with the PSC.

10 Obviously, I don't want to get into a situation where I'm
11 having multiple negotiations, and everyone is ratcheting up and
12 making demands, because I do think this is ultimately a
13 regulatory issue, first and foremost; but we're certainly
14 prepared to work with the PSC, and I think the PSC has gotten
15 ample information.

16 **THE COURT:** When you say "gotten ample information"
17 -- meaning they've been given some notion of what the
18 parameters are, or just topics? Or what's --

19 **MR. GIUFFRA:** We went into specifics for two hours on
20 Thursday morning, talking about the lengths of warranties; why
21 we thought the length of the warranty should be X; why they
22 thought it should be Y; issues such as that.

23 **THE COURT:** All right. So you shared your client's
24 view on, for instance, what they think the length of the
25 warranty should be. And the PSC indicated its view?

1 **MR. GIUFFRA:** Correct. Not surprisingly, we think it
2 should be shorter than they think it should be. They think it
3 should be longer than we think it should be. That's what goes
4 on in any negotiations.

5 But there certainly has been good-faith cooperation, you
6 know, on all sides. And, you know, ideally we'll be able to,
7 you know, get this done.

8 In terms of timing, you know, it's a complicated set of
9 agreements.

10 There are regulatory issues connected with those
11 agreements that are not PSC's concerns that we have to work
12 through. And once that process is done, you know, I think it
13 will -- we'll get this, you know, done reasonably quickly;
14 probably sometime during the summer.

15 A good thing to keep in mind when one compares this to
16 *Volkswagen* is that in the *Volkswagen* case, the testing and the
17 approval process was after the settlements.

18 Here you'll have the testing and the approval process
19 done, you know, before the settlements are done. So you
20 have -- there will be greater certainty all around, which we
21 think ultimately is good for everyone.

22 **THE COURT:** What's the best way to avoid a situation
23 where you spend the next several months working with CARB and
24 EPA in trying to hammer out the consumer-facing issues, and
25 then you come to court and receive strenuous objection -- maybe

1 length of warranties, or the speed of recall, et cetera, et
2 cetera -- coming from the PSC, which, if I were then to sort of
3 sustain those objections, it's sort of back to the drawing
4 board? How do we avoid that situation?

5 **MR. GIUFFRA:** Well, I think, Your Honor, were that to
6 happen, first of all, I daresay that I think the EPA, the
7 Department of Justice, and California Attorney General are not
8 going to, like, roll over to some bad settlement that was
9 agreed to by them. I don't think they're going to do that. I
10 think they're very focused on the consumer issues.

11 So I would be very surprised that the PSC would come in
12 and say, *We want even more*. It's possible they could do that;
13 but at some point the Court and, obviously, the Government and
14 we have to make a decision.

15 And it can't be that the PSC has the ability to have a
16 veto of the settlement. The settlement will have to be
17 evaluated, you know, on its own. And Your Honor will have to
18 make a judgment.

19 I don't think that will happen. I can't predict it. You
20 never know.

21 One of things, obviously, we still have to --

22 You know, Ms. Cabraser talks about, you know, the class.
23 Well, the class hasn't been certified here yet. There are, in
24 our opinion, respectfully, issues of class certification in
25 this case. We may or may not get to them. They may or may not

1 be litigated in this court or in the Ninth Circuit; but they
2 certainly exist.

3 But we want to try to get to a fair and reasonable
4 resolution with everyone, because that's in the public's
5 interests, it's in our customers' interests, and it's in the
6 company's interests.

7 **THE COURT:** Now, the Settlement Master has indicated,
8 I think, quite strongly that he thinks it's going to facilitate
9 the overall settlement process by sharing these drafts sooner
10 rather than later. So why shouldn't we give special attention
11 to what the Settlement Master, who sits in the middle of all of
12 this, has to say?

13 **MR. GIUFFRA:** Again, I've done two of these. I think
14 the folks on the Government's side have lots of auto makers
15 they're dealing with. And I can see, from their perspective,
16 why they would not want to have private plaintiffs with private
17 lawyers who have private-lawyer incentives to be sitting at the
18 table while they're negotiating a regulatory settlement with a
19 regulated party.

20 In my experience, Your Honor -- and that's -- you know,
21 I've now been doing this for at least 25 years. You know, I've
22 never seen that happen. And that's cases involving all sorts
23 of regulated institutions.

24 It's just -- regulators -- we have an obligation to deal
25 with our regulators, to comply with regulatory requirements and

1 settle the case with regulators. We're fully -- that's our
2 chief, most important objective.

3 And to have private plaintiffs' lawyers in the middle of
4 the drafting process would be, you know, unprecedented in my
5 experience.

6 That being said, there's really not much that Ms. Cabraser
7 doesn't know about the material terms that we're talking about
8 because, again, we want to try to be as cooperative as we can
9 be.

10 And, as I think both the Government and we have indicated,
11 to the extent that we come to an agreement in principle, and
12 sort of say, *Pens down. We've now agreed on what we think is*
13 *the right warranty language* -- okay? -- then, you know,
14 presumably we'll have to sell it to the PSC.

15 The PSC will have to say, *You know, really, we don't think*
16 *that California and the DOJ and the EPA have negotiated a good*
17 *deal.*

18 I think they'll ultimately -- you know, I think this will
19 all work itself out.

20 **THE COURT:** Is your projection of timing similar to
21 what Ms. Fiorentini said; that --

22 **MR. GIUFFRA:** Look. We have -- we have -- the
23 documents, themselves, are somewhat complicated, as one would
24 imagine.

25 They -- there are certainly drafts that have been

1 exchanged.

2 The Government has the latest set of drafts, and is going
3 to come back to us with more comments. We gave the Government
4 line items.

5 I think that you'll see something liking like complete
6 documents probably sometime next month; but that being said,
7 you know, there are other issues that need to be resolved in
8 connection with the Government's settlement that we have not
9 yet talked about or come even close to settlement on that are
10 going to be part of the overall settlement.

11 So that's -- that's something that the PSC has absolutely
12 nothing to do with. So that will take some time.

13 So realistically, you're probably talking, you know, a
14 number of months. Whether it's one month, two months, three
15 months -- where this can be done.

16 Now I can talk, if Your Honor would like, about whether a
17 status of the testing is --

18 **THE COURT:** I'm going to get there, but let me just
19 fine tune this for a moment.

20 Will you agree with the general notion that once there is
21 an agreement in principle on the consumer-facing issues,
22 notwithstanding other outstanding -- because you've -- I've
23 heard this has been made a priority. And that may be resolved
24 first, before other issues.

25 And I understand that there's some kind of relationship,

1 and things have changed; but you share the view that's already
2 been expressed by the Government that once there is an
3 agreement in principle on the consumer-facing issues, that that
4 would be the appropriate juncture at which to share what's been
5 agreed to with the --

6 **MR. GIUFFRA:** That would go beyond what happened in
7 VW, but we would be prepared to do that.

8 **THE COURT:** Okay. All right. Before we go to the
9 protocol, let me get immediate reactions from Ms. Cabraser on
10 behalf of the PSC.

11 **MS. CABRASER:** Your Honor, it's our position that
12 settlement process with respect to anything related to the
13 consumers or plaintiffs and class members would be facilitated
14 and improved, and certainly the confidence of the consumers
15 would be assured, by our ability to see drafts before they get
16 to the stage -- and we appreciate what the California AG has
17 said. We're not sure exactly how that would happen. I think
18 at the agreement in principle or Memorandum of Understanding
19 stage is certainly preferable to the final documentation stage.

20 And I would say this. We are perfectly willing and we
21 will continue to provide information, even on a one-way basis,
22 to the California AG, to CARB, and DOJ. We did that with
23 respect to actual industry data on warranty, that was pertinent
24 to warranty, based on how much -- how many miles per year these
25 consumers actually drive these vehicles; because we noticed

1 that it was possible that the warranty provisions weren't going
2 to exactly correlate with that, and we wanted to make sure we
3 did, because class members know how long they drive -- how much
4 they drive, and how long they intend to drive their cars.

5 **THE COURT:** And you've got communication from the
6 negotiating parties on the other side, short of what --

7 I understand that the FCA has indicated its view on that
8 question?

9 **MS. CABRASER:** Yeah. We thought it was important to
10 remind the parties of the real-world data that was out there,
11 and why our warranty provisions were as they were, so that
12 there could be understanding. So that's the sort of thing that
13 I think would be helpful here.

14 And to the extent we see draft documents, we can weigh in.
15 We'll weigh in, anyway; but it would help us be able to do
16 that. And, indeed, no two cases, no two settlement
17 negotiations, no two styles are alike.

18 But in the *Volkswagen* settlement process, for example, we
19 were able to sit in a room, and see and read draft
20 documentation. It was a very small group. We had dispensation
21 to do that from the Court.

22 **THE COURT:** At what stage was this?

23 **MS. CABRASER:** It was in the drafting stage,
24 Your Honor. There were multiple drafts. I can't pinpoint for
25 you exactly, but certainly before the documents were finalized;

1 certainly before the final agreements in principle were
2 reached.

3 And it was done with much attention to the absolute need
4 to preserve confidentiality. A very small group. I think at
5 one point, it was eyes only. And it worked. It was helpful.
6 I think it enabled the parties to get on the same page, and
7 understand each other, and understand the terminology, and to
8 share information and views. And I think that's one of the
9 reasons why that very complicated settlement has worked so
10 well.

11 We would like this settlement to work as well. In fact,
12 in certain respects we'd like it to work better, to be able to
13 apply what we've learned to this not identical but in many ways
14 similar scenario.

15 So, Your Honor, the settlement-negotiation process is
16 yours to supervise, under the auspices of the Settlement
17 Master. We will adhere to any orders and directives. We've
18 done that so far. We'll continue to do it, but we don't think
19 the process would be facilitated if -- if we were able to get a
20 better window into the process at this stage, again, under the
21 terms of a Confidentiality Order that we stipulated to over a
22 month ago.

23 **THE COURT:** Are there particular points, sort of deal
24 points in the consumer-facing issues, where you feel like you
25 don't have a sense of where the negotiating parties are, or

1 their --

2 Putting aside the actual language, itself --

3 And I mean, the many deal points -- time lines, or
4 percentage, whatever it is --

5 **MS. CABRASER:** Right.

6 **THE COURT:** -- where you don't have a sense of where
7 they're going, and you think --

8 **MS. CABRASER:** You know, we have -- we certainly have
9 a sense of what the general topics are. I think every single
10 document that every single one of us has probably drafted or
11 exchanged has the same topics with respect to what is important
12 to the class members: The warranties, performance, miles per
13 gallon, Lemon Law provisions.

14 We have not discussed or negotiated compensation to the
15 consumers. And my understanding is that's not something that
16 would be done by the Government agencies in any event.

17 **THE COURT:** Right.

18 **MS. CABRASER:** So we don't have a -- you know, a
19 concern in that regard.

20 But what we don't know as we go on is where the
21 Governments are considering the warranties; precisely what
22 parts and systems the warranties would cover; how a clear,
23 Lemon Law-type protection in this settlement would be
24 articulated and enforced. And that's of great interest to us.

25 And, of course, even though a lot of these documents will

1 involve very technical emissions language and criteria that's
2 not ours to negotiate, nonetheless, the other interests we have
3 in improving on the process that we went through in the
4 *Volkswagen* settlement is: Wherever and whenever we can make
5 any language that is material and important to the consumers as
6 plain and clear and consistent as possible, so that people
7 understand the resolution and their role in it --

8 We want to be able to do it. And we'd like to be able to
9 do it sooner rather than later, because, again, this is an
10 ongoing problem. We want people to come in and get any
11 approved emissions repair. We want people to do it on an
12 expedited basis. And we want them to do it with faith and
13 trust in how it's going to work, and that it will work for
14 them. Otherwise, it's not going to happen. And it's in our
15 interests that it happen.

16 The regulatory concern that the defendants are trying to
17 resolve, to their credit, is only going to be resolved
18 effectively if they do something that the consumers,
19 themselves, are wholehearted participants in.

20 So that's our view of it. It's a complementary role.
21 And, as I say, we'll make it work, whatever Your Honor
22 instructs and decides; but it is our position that a sooner
23 rather than later ability to view and review and weigh in on
24 and comment on the drafts would be beneficial to all.

25 **THE COURT:** All right. Thank you.

1 You wanted to say something, Mr. Giuffra.

2 **MR. GIUFFRA:** Yeah. Ms. Cabraser made a comment
3 maybe she doesn't remember quite.

4 I am certain that in the VW situation, we had an agreement
5 in principle that was drafted and signed. And then that might
6 have been shown to the PSC, but the PSC certainly did not get
7 documents in the course of the drafting process; and -- believe
8 me -- certainly not at the early stage where we are, where
9 there are drafts going back and forth. I mean, it would really
10 be something that would be unprecedented, in my experience, for
11 them to have.

12 Now, when we get closer and we've got an agreement in
13 principle, I think we're all in agreement on that.

14 She also made another comment which I think is important
15 just to put on the Record. Yes, the PSC is in the business of
16 seeking compensation; but if the PSC makes unreasonable demands
17 that are just completely outsized for what this case is about,
18 we will litigate. And that's an option we obviously have. And
19 we'd like to get agreement with the PSC, if we're able to. We
20 have a great mediator here, so I'm reasonably confident that we
21 should be able to come to terms; but it's not as if the PSC
22 suddenly has some ability to make whatever demands it wants,
23 and hold up a settlement. It just can't do that.

24 **THE COURT:** Well, and by the same token, they don't
25 have the right, even if they're sharing drafts. They may

1 object. They may send their views. And, you know, you do what
2 you want with your views at that point.

3 You would do that with eyes wide open, knowing that if you
4 move ahead and reach a settlement with the governmental
5 agencies, where there are substantial objections coming from
6 the PSC, at least you know it's coming.

7 I mean, but it's not --

8 So the idea that, you know, this is highly disruptive
9 because they're -- now we've got three people negotiating with
10 four different parties at the negotiating table --

11 I mean, you can do what you wish.

12 I think their desire is to have a better sense, and have
13 informed input into this thing.

14 And, you know, at least you will know earlier on whether
15 you're going to be looking at objections or not. They're
16 just -- in a way, why do we have preliminary settlement
17 approvals, instead of just one final settlement? I mean, it's
18 an iterative process. So it seems to me at some point it makes
19 sense. If you wait too long, then we're just -- possibility
20 of, you know, inviting objections, which maybe, you know,
21 you're unprepared for, et cetera, et cetera. It could slow the
22 entire process down.

23 **MR. GIUFFRA:** Your Honor, everyone involved in this
24 is extremely experienced doing these kinds of settlements.

25 The issue that was raised by Ms. Cabraser -- like, what's

1 the scope of the warranty? -- we talked about that very issue.
2 And so we're not, like -- and we're still -- we're probably,
3 you know, a number of months away from having signed documents
4 with the Government.

5 If we come to an agreement with the Government -- we, in
6 California -- which is certainly looking out for the consumer,
7 on terms with respect to the consumer-facing issues, we'll
8 share the language with them.

9 I suspect, knowing how the process has already worked
10 now -- it worked last week -- that before we even come to an
11 agreement in principle, Ms. Cabraser will have ample
12 opportunity, through us, through Mr. Feinberg, in dealing
13 directly with the EPA, CARB, and DOJ, to discuss all of the
14 really material terms of any consumer-facing resolution. So I
15 think this is really not an issue.

16 We're not going to, like, suddenly, you know, spring this
17 thing on them at the, you know, 11th hour, and then suddenly
18 run into court to try and get an approval; and the PSC is going
19 to say, *We just found out about that*. That's not happening.

20 It's possible we could have a disagreement on the
21 compensation. That is a -- I put a marker down on that. If
22 they're not --

23 **THE COURT:** I'm wondering whether there is some
24 interim step prior to actually sharing draft language, which
25 probably needs to be done at some point, to at least share

1 basic deal points, whether directly or --

2 **MR. GIUFFRA:** We've largely done that, Your Honor. I
3 did it. Mr. Feinberg was in the room.

4 I went through --

5 The PSC sent Mr. Feinberg a letter that had -- was
6 probably four, five pages long. Might have been four pages
7 long -- of deal points. I went through every single one of
8 them. The Fiat Chrysler business person was there. We went
9 through each one of the points.

10 In response to our presentation, the PSC wrote a letter to
11 everyone, raising its version of the deal points. So this is
12 already going on. It's not like there's some big issue where
13 the PSC is being excluded.

14 I think it's important to recognize that the terms that
15 we're dealing with, in terms of our negotiation with DOJ, EPA,
16 and CARB, are -- there's lots of regulatory terms that the PSC
17 has no right to even have anything to do with. And so you
18 can't suddenly say, *Come in, PSC. Participate for 20 minutes.*
19 *We're going to discuss this provision, and then leave the room.*

20 We really need to try to make the process work as it
21 normally does between a regulated party and regulator.
22 Obviously, they have ample opportunity to participate in the
23 process.

24 And I can represent to the Court there is zero chance --
25 zero -- that this thing is going to come to Your Honor with

1 signatures on it, and the PSC won't have had ample opportunity
2 to tell everyone what it thinks, months before, probably, if
3 not -- well, at least weeks, but maybe months -- about any
4 specific --

5 (Knocking on the courtroom door.)

6 **THE COURT:** All right. Let me ask Mr. Feinberg a
7 question first, because you had indicated that you had thought,
8 notwithstanding everything we've heard, that it would still
9 facilitate settlement.

10 Do you have any thoughts about how we might proceed,
11 knowing what's gone on so far, what the parties' interests are,
12 as to what -- would be the best way?

13 **SPECIAL MASTER FEINBERG:** I think that as soon as the
14 Government and Fiat Chrysler are prepared to send the drafts to
15 the PSC, that would be wonderful. I hope it's sooner rather
16 than later.

17 In the interim, I do agree with the Government and with
18 Fiat Chrysler. I mean, we will continue to work. The PSC has
19 made it extraordinary efforts, I must say, to try and engage as
20 much and learn as much as they can about the consumer-related
21 provisions and other provisions being negotiated. They're not
22 entirely in the dark.

23 The perfect is the enemy of the good here, I guess.

24 It would be nice if they had the draft; but in the absence
25 of a draft, I do agree with Mr. Giuffra that we will be able to

1 continue to make the effort to keep the PSC not only informed
2 of the negotiations that are relevant, but also to have some
3 input into those negotiations with my help.

4 So bottom line: When you can get them the draft,
5 excellent. But in the meantime, we'll move forward. And the
6 PSC has been very cooperative in trying to work as best they
7 can with this handicap, but they will continue to work
8 diligently with a mediator. And we will try and make progress,
9 as Mr. Giuffra just explained.

10 **THE COURT:** All right. Well, let's do this. And I
11 understand that there are other meetings scheduled in May. I
12 want to set a further status conference.

13 My original thought at the -- well, we do a June 1st or
14 May 29th. There's a block of time in the middle of May --
15 middle of June I may not be available. So I'd rather do it
16 then, rather than waiting until the end of June.

17 In the meantime, I want to make sure I'm in league with
18 the offices of Special Master Feinberg, to see that -- to try
19 to facilitate, short of actual exchange of drafts, which I
20 don't think I'm going to order at this point -- but I do want a
21 dialogue to continue, and the PSC not to be in the dark, you
22 know. To the extent that there are further exchanges again
23 over some of these deal points as things progress, I think
24 there ought to be an effort to share that information.

25 So -- but I'm going to look at it, and come to the next

1 CMC to see far we are. And I'm going to expect that it's going
2 to come sooner rather than later that actual drafts would be
3 prepared. And I say that with some confidence, because the
4 parties have said that they've made progress; this is a
5 priority; the consumer-facing issues are a priority. And
6 you've got a series of meetings coming up, so I'm hoping that
7 that will come to a point where we can get it to a second base
8 instead of first base.

9 So June 1st or May 29th. Anybody have a preference?

10 **MS. CABRASER:** Either will work for plaintiffs,
11 Your Honor, with a mild preference for May 29th; but June 1st
12 would work also.

13 **THE COURT:** All right. Anybody else have any problem
14 with either of those dates?

15 **MR. GIUFFRA:** I'd rather not do the 29th. The 29th
16 is the day after Memorial Day.

17 **THE COURT:** That's true.

18 **MR. GIUFFRA:** So, you know, we have to come out the
19 day before.

20 **THE COURT:** Let's do June 1st. I want to give things
21 a maximum chance to gestate here and develop. So --

22 **MR. GIUFFRA:** Your Honor, the only other thing I
23 would note: I have, at least, in my calendar -- it could be
24 wrong. I have something on the 31st which says that, you know,
25 there may be some sort of a settlement meeting. I do not --

1 maybe we talked about that, and we didn't.

2 Okay. So June 1st is fine.

3 **THE COURT:** Okay. All right.

4 A brief update on the testing-protocol situation.

5 **MR. SLATER:** Excuse me, Your Honor. What time will
6 the --

7 **THE COURT:** Oh. 10:30. I'm sorry.

8 **MR. SLATER:** Thank you.

9 (Whereupon a document was tendered to the Court.)

10 **THE COURT:** Okay. Did you call the attorneys in?

11 **THE CLERK:** No.

12 (Discussion off the record.)

13 **THE COURT:** All right. Update on the
14 testing-protocol situation.

15 **MS. RENDÉ:** Your Honor, our understanding with the
16 current status of FCA's testing is that they are in the process
17 of testing the proposed fix. This would be Phase 2 of the
18 testing phases that we had discussed before.

19 **THE COURT:** Mm-hm.

20 **MS. RENDÉ:** And right now the current status is that
21 they will be complete with their testing as of June 28th, 2018.
22 So the time has expanded a bit.

23 And with that in mind, just a reminder that the
24 United States and California will need an additional 30 days to
25 perform their analyses of FCA's testing. So that would put us

1 towards the end of July.

2 **THE COURT:** So this is now about three months behind
3 schedule.

4 **MS. RENDÉ:** What we initially told you -- correct.

5 **THE COURT:** Yeah, but what's your understanding? Are
6 there problems, or what's happening?

7 **MS. RENDÉ:** Because FCA is performing the testing,
8 I'm sure Mr. Giuffra can speak more to the exact issues right
9 now.

10 **THE COURT:** All right. Mr. Giuffra.

11 **MR. GIUFFRA:** Your Honor, the testing is going on
12 'round the clock pursuant to the agreed-upon protocol that we
13 had with the EPA and CARB. We believe that we're making good
14 progress. We have good news to report, and we remain
15 optimistic that the recalibration that the Government has
16 already approved for the 2017 vehicles will work for the 2014
17 to 2016 vehicles.

18 We are providing test data to EPA and CARB on a weekly
19 basis. There have been days when EPA has been present for some
20 testing. And, as Ms. Rendé said, you know, we now anticipate
21 that we'll be done by the end of June. Just a reason for that.

22 There are two vehicles that are at issue in this case:
23 Jeep Grand Cherokees, and then Ram 1500s.

24 The Jeep Grand Cherokee testing, we believe, is on track
25 to be completed by mid to late April.

1 The problem that arose is that on the Ram testing, which
2 is now going to be -- take until, we think, June 28th, it was
3 pushed back a few weeks, because there was a hardware issue
4 with one truck; just a fate of this one truck had a hardware
5 issue.

6 One of things that we had to do was get trucks that had,
7 you know, lots and lots of miles, because the Government wanted
8 us to test the recalibration on old trucks. And this one just
9 happened -- you had to buy the truck; get the truck. And it
10 had a hardware issue.

11 And so where we are is that right now on the Ram trucks,
12 the three are being tested. The first one we expect to be
13 completed by late April; the second by early May. This third
14 vehicle, we think, is going to take until -- because you have
15 to run the trucks and do the testing, and that takes time, and
16 there's just -- there's nothing you can do about it.

17 So we and the Government agreed that we would replace one
18 of the trucks, which had this hardware issue. And that is
19 what -- the reason for pushing back the testing.

20 Now, we also -- as Ms. Rendé said, you know, the
21 Government plans to do its confirmatory testing. We're going
22 to make the vehicles available to the Government to do their
23 confirmatory testing in addition.

24 California has recently requested that we provide three
25 additional vehicles to them for testing. We have agreed to do

1 that.

2 We've also, Your Honor, provided a PSC with what's called
3 NVH -- noise vibration hardware -- data and driveability data
4 from the protocol testing; the same data that we provided to
5 the Government. And so far, that data shows no impact on
6 performance from the calibration.

7 Again, we remain optimistic that the carry-back
8 calibration will work, and that the cars can be fixed.

9 And then the last thing we have to do, obviously, once
10 we're done with all of OUR work, is we'll have to provide the
11 fuel-economy data to the PSC once we're done with that. And,
12 you know, again, we remain optimistic that we'll get through
13 this process and be able to address any issues that anyone has.

14 **THE COURT:** And that fuel-economy data will be
15 provided. Is that being provided on a rolling basis, or what's
16 the timing of that?

17 **MR. GIUFFRA:** We're providing that data to -- we're
18 still analyzing the testing. And we're going to give it to
19 them once we've completed the tests, which hasn't been done
20 yet. And I can get back to Ms. Cabraser when that's going to
21 happen.

22 **THE COURT:** All right. Let me ask PSC. Do you have
23 any comments on the timing of all of this or the progress of
24 the testing?

25 **MS. CABRASER:** Your Honor, it takes as long as it

1 takes.

2 We understand the issues. We've been keeping up with
3 the -- you know, the deadlines, as they have moved a little
4 bit. We understand the need for confirmatory testing. And, in
5 fact, to the extent we can inform that process by reporting in,
6 you know, from what class members have experienced -- we've got
7 folks that are driving some of the 2017s that have bad
8 emissions repair. And so if and as issues come up with that,
9 we have been and will report them in, so that they can be taken
10 into account in connection with any -- any testing.

11 Whether they're relevant or not, you know, we don't know.
12 We don't have a window into that process.

13 But again we repeat our offer that if additional vehicles
14 at any stage of the testing are required -- it would be helpful
15 to get to have them for any type of testing -- we have them,
16 and we're happy to make them available.

17 **THE COURT:** All right. Well, your cooperativeness is
18 indicated on the Record.

19 Ms. Rendé.

20 **MS. RENDÉ:** Your Honor, I just want to make sure that
21 we set accurate expectations for you, in terms of timing. I
22 know that FCA indicated that the Jeeps may be completed by the
23 mid to late April.

24 Just to clarify, that does not mean that we will be able
25 to perform our assessment on the Jeeps shortly thereafter,

1 because there's still another component that we're waiting on
2 related to OBD. So I just want to make sure you're aware of
3 that.

4 So we do stand by the June 28th date by the completion of
5 FCA's testing, plus another 30 days for the Government.

6 **THE COURT:** All right. So you're not expected to do
7 EPA confirmatory testing in advance of 30 days beyond the
8 June 28th date?

9 **MS. RENDE:** Correct. As of right now, that is our
10 position.

11 **THE COURT:** Okay. All right. Well, I will just
12 reiterate the Court's concern about the speed of getting this
13 testing done.

14 I understand that there are practical problems that arise
15 from time to time; that, given the resources available, I would
16 hope that those can be overcome quickly, because we have a
17 problem of cars being on the road every day that -- we don't
18 get this done. And I'd like to ensure that we move forward,
19 and to address those issues. So hopefully there's not going to
20 be any further delays beyond this.

21 All right. Let me address, then, the case schedule in
22 this matter. The parties, after the initial filing of the case
23 management conference statement, had offered a stipulation with
24 new deadlines, which pushes back class certification partly to
25 avoid the bifurcation discussion which would target a Reply

1 Brief in support of class certification August 20th. From
2 that, I would set a hearing date of September 11.

3 Betty is that right?

4 **THE CLERK:** Yes.

5 (Discussion off the record.)

6 **THE COURT:** All right. Well, let's set it for
7 September 11th at 10:00 a.m. And I will adopt this schedule,
8 which extends things by about 50, 55 days.

9 There's also a proposal to file a Second Amended Complaint
10 with potentials motions to dismiss. That Second Amended
11 Complaint is going to be filed April 23rd, according to the
12 schedule. Correct?

13 **MS. CABRASER:** Yes, Your Honor. That's correct.

14 And that will be amended only as to the extent that leave
15 was granted to amend with some very specific particulars. And
16 we are happy to provide the defendants with a redline that
17 shows them exactly --

18 **THE COURT:** All right.

19 **MS. CABRASER:** -- where the new material is, because
20 it's going to be -- it's going to be quite limited. We're
21 guided by the parameters of Your Honor's Order --

22 **THE COURT:** All right.

23 **MS. CABRASER:** -- on the earlier Complaint.

24 **THE COURT:** I think that would be useful. And I
25 think a meet-and-confer would be useful to see whether it's

1 necessary to file -- go through the whole process of another
2 Motion to Dismiss, and another set of hearings with that.
3 Can't be a verdict and -- can't. But I don't see the harm in
4 doing a shared redlined draft; maybe having a meet and confer
5 about whether everybody is in opposition, or whether there's
6 something you can do to meet their concerns before you actually
7 file it.

8 **MS. CABRASER:** We're happy to do that, Your Honor. I
9 think that that may eliminate issues, or it may narrow issues
10 entirely. We'll give it a shot.

11 **THE COURT:** All right. Good. Then otherwise, if it
12 is necessary to file a Motion to Dismiss, it sounds like the
13 replies under your schedule is July 13th. And we need a date
14 probably in late July/early August. Not here on the 26th. So
15 it would have to be -- well, I guess --

16 **THE CLERK:** August 2nd or August 9th.

17 **THE COURT:** How about August 2nd, regular law and
18 motion calendar at 1:30?

19 **MR. GIUFFRA:** Just want to check.

20 **THE COURT:** Okay.

21 **MR. SLATER:** Your Honor, while he's checking on the
22 first date, September 11th is religious holiday. I wonder if
23 we could move it later during that week.

24 **THE CLERK:** September 14. Friday.

25 **THE COURT:** Let's do it the 14th. Is that all right?

1 That would be on the certification motion. And August 2nd
2 would be the any Motion to Dismiss hearing.

3 **MR. GIUFFRA:** I have something on the on the 14th.

4 **THE COURT:** The 14th.

5 **MR. GIUFFRA:** Is there any other day we could do it?

6 **THE COURT:** 14th?

7 **MR. GIUFFRA:** Yeah. Could we do it the 13th or the
8 12th?

9 **THE CLERK:** We can do the morning of the 12th.

10 **THE COURT:** The 12th is not available. How about the
11 13th?

12 **THE CLERK:** It's a law and motion. We can do it on
13 during motion time.

14 **THE COURT:** Yeah. Well, we'll add it to our regular
15 law and motion calendar on the 13th.

16 **THE CLERK:** September 13th at 1:30.

17 **MR. GIUFFRA:** Your Honor, let me raise this, because
18 I think it's important. I think that the class-cert. issues,
19 if we litigate them, could be important in this case.

20 And again, you know, we haven't seen their motion. They
21 haven't seen our response. They identified their experts.

22 It certainly has become something that courts are
23 increasingly doing, where you sometimes have, you know,
24 evidentiary hearings, where you actually allow the experts to
25 actually sit in the box and answer questions. So I would think

1 that this is -- given the importance of it for the case,
2 potentially, I would not want to have it be some rushed
3 process. And I suspect we might have a discussion with the
4 plaintiffs about whether there should be, you know, witnesses
5 or not. And, I mean, I have cases --

6 **THE COURT:** You want to specially set it?

7 **MR. GIUFFRA:** Definitely. We want a special day, at
8 a minimum; and it could easily be two days. I mean, I know
9 Your Honor may not think that. But I actually had a case with
10 Mr. Cabraser's firm where we had a two-day class-cert. hearing.

11 **THE COURT:** I'm not necessarily saying no. I just --
12 we will see.

13 **MR. GIUFFRA:** I fully agree. I suspect there will
14 be -- there will be -- I want to just -- I want to just put a
15 marker down on that potential issue.

16 **THE COURT:** All right.

17 (Discussion off the record.)

18 **THE COURT:** I'm not worried about that.

19 **THE CLERK:** Okay. September.

20 **THE COURT:** Let's just set a date. Is there --

21 **THE CLERK:** September 17 and 18.

22 **THE COURT:** Let's set it for the 17th. Is that the
23 afternoon, Betty?

24 **THE CLERK:** We can do it in the morning. I'm sorry.
25 In the afternoon. That's right.

1 **MR. GIUFFRA:** Again, Your Honor, I just think
2 realistically, given what I know about the issues that are
3 going to be present for class cert., it's just not something
4 that you can do in, like, an hour.

5 **THE COURT:** No, it's not -- I don't mean an hour. I
6 mean after we have a trial. And I'll be available after
7 2:00 o'clock. So we can set aside three hours. And, if need
8 be, I'll set aside the next day. And if I'm convinced that we
9 have to have a mini trial and full hearing, I can reset at that
10 point; but I need to be convinced of that.

11 **MR. GIUFFRA:** Understood.

12 **MS. CABRASER:** Right.

13 **THE COURT:** I'll set aside the 17th and the 18th
14 afternoons for now.

15 **MS. CABRASER:** All right, Your Honor. I was going to
16 not -- not to preargue the motion, but I think the afternoon
17 will probably be more than sufficient; but in any event, the
18 Court will have a better view of that when the briefing is
19 actually --

20 **THE COURT:** Yep.

21 **MS. CABRASER:** -- submitted.

22 **THE COURT:** So for now, 17th and 18th.

23 **MR. SLATER:** Seventeenth, okay. Eighteenth, we run
24 into the same problem. Yom Kippur starts the evening of the
25 18th, at least, on my calendar. And --

1 **THE COURT:** Okay. Sundown is -- it's in September.

2 **MR. SLATER:** Many of us would have to travel. So I
3 don't know if it's possible to move it to the following week
4 or --

5 **THE COURT:** I'll just set it for the 17th for now.
6 And if it appears that we're going to need more than three
7 hours, I will consider setting a second day, or moving that
8 date; but I want to move this case along, and I don't want to
9 put this over into October.

10 So the 17th at 2:15. At 2:15.

11 And August 2nd at 1:30.

12 And then we have our CMC that we set a date for.

13 **THE CLERK:** June 1st at 10:30.

14 **THE COURT:** All right?

15 **MS. RENDÉ:** Your Honor.

16 **THE COURT:** Yes.

17 **MS. RENDÉ:** One clarification before we close up. I
18 just wanted to note that April 6th was the deadline for
19 substantial completion of written discovery. And with that in
20 mind, the United States and FCA had have several
21 meet-and-confers. And it's still ongoing.

22 For clarification, any discovery disputes that remain
23 after meeting and conferring, should the parties file something
24 with Your Honor, or with Judge Corley?

25 **THE COURT:** Judge Corley's been assigned discovery in

1 this case. I think I've already entered an order. So it
2 should go to her. And she has, as everybody does here, the
3 written-letter format.

4 **MS. RENDÉ:** Thank you.

5 **THE COURT:** All right. Good. All right. We'll see
6 you, then. Thank you.

7 **MR. GIUFFRA:** Thank you, Your Honor.

8 (At 3:37 p.m. the proceedings were adjourned.)

9 I certify that the foregoing is a correct transcript from the
10 record of proceedings in the above-entitled matter.

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Lydia Zinn

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April 11, 2018

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Signature of Court Reporter/Transcriber Date
Lydia Zinn

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