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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION
17

18 IN RE
19 MYFORD TOUCH CONSUMER
20 LITIGATION
21
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Case No. 3:13-cv-03072-EMC

**PLAINTIFFS' OPPOSITION TO FORD
MOTOR COMPANY'S MOTION FOR
ADMINISTRATIVE RELIEF UNDER
CIV. L.R. 7-11 TO MODIFY MERITS
EXPERT AND SUMMARY JUDG-
MENT DEADLINES**

Judge: Hon. Edward M. Chen

1 Ford's motion for modification of the deadlines for expert reports and summary judgment
2 motions should be denied. Ford must show good cause for modification of the scheduling order.
3 *See* Fed. R. Civ. P. 16(b)(4) ("A schedule may be modified only for good cause and with the judge's
4 consent."). Ford's motion does not mention, let alone establish, good cause, although its proposed
5 order contains the unexplained statement that the motion is being granted for "good cause." Ford's
6 failure to address the controlling standard means that its motion should be denied on that basis
7 alone.

8 Ford's motion fails substantively as well, since its arguments do not remotely establish good
9 cause. First, Ford erroneously contends that the deadlines must be moved because "Plaintiffs'
10 motion is complex, seeking certification of 12 putative state law classes comprising of 37 causes of
11 action." Mot. at 1. Ford does not even try to show how that alleged complexity affects any expert's
12 report. Ford does not dispute that the substantive claims for the various classes are *identical*, so
13 expert reports will be identical for all putative classes, regardless of whether the class certification
14 motion is granted in full or in part. None of the experts proffered by the parties regarding class
15 certification gave different opinions regarding the various proposed classes, and Ford does not
16 provide the slightest reason to believe that expert merits reports could possibly differ depending on
17 which classes are certified.

18 Ford's second reason for its proposed schedule modification also fails to establish good
19 cause. Ford states that it "submitted objections to certain of Plaintiffs' evidence, include [sic] *Daubert*
20 *objections* related to opinions of three of Plaintiffs' experts, and Plaintiffs sought to exclude
21 opinions of one of Ford's experts." Mot. at 1. But Ford does not explain why its *Daubert* motions
22 to exclude the opinions of three of Plaintiffs' experts has *any* effect on the expert merits reports
23 Ford will file. Plaintiffs believe that Ford's *Daubert* motions are meritless, and Plaintiffs are
24 prepared to file their expert merits reports on August 1, thereby complying with the current dead-
25 line. So Ford has no basis at all, let alone good cause, to seek modification of the scheduling order
26 based on its own *Daubert* motions. And Ford does not explain how or why Plaintiffs' *Daubert*
27 motion might affect any merits report Ford may proffer. Even if there were some possibility that
28 this Court's ruling on Plaintiffs' single *Daubert* motion would affect one of Ford's merits reports,

1 that mere possibility does not justify modifying the schedule as to all merits experts and summary
2 judgment motions. Ford can seek limited relief if there is an actual effect on one of its expert merits
3 reports, but there is no good cause for wholesale modification of deadlines for expert reports and
4 summary judgment motions based on Ford's speculation that one of its expert merits report might
5 be affected.

6 Finally, Ford's motion should be denied because Ford ignores the strong possibility that the
7 pretrial conference and trial dates would have to be moved if its motion were granted. For example,
8 if this Court were to issue the class certification ruling on August 15, the deadline for filing reply
9 memoranda in support of summary judgment motions would not be until December 22, 2016.¹ The
10 hearing on summary judgment motions would likely not be held until mid-January to late-January
11 2017, particularly given the holidays. A ruling might not issue until March 2017. But the pretrial
12 conference is set for March 28, 2017, and the current case management and pretrial order requires
13 the parties to confer at least 42 days before the pretrial conference to confer regarding: (1) prepara-
14 tion and content of the joint pretrial conference statement; (2) preparation and exchange of pretrial
15 materials; and (3) settlement of the action. But under Ford's proposal, this Court likely will not
16 issue a summary judgment ruling by February 14, 2017, which is 42 days before the scheduled
17 pretrial conference. As a result, Ford's proposed modification of the scheduling order would likely
18 result in a need to change the dates for the final pretrial conference and trial.

19 Given Ford's failure to establish good cause, and the likelihood that Ford's proposed modi-
20 fication would result in a new trial date, Ford's motion should be denied.

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26 ¹ If the Court entered the class certification ruling on August 15, the following deadlines would
27 result from Ford's proposal: merits expert reports due 28 days later, on September 12; rebuttal
28 merits expert reports due 38 days later, on October 20; summary judgment motions due 21 days
later, on November 10; oppositions to summary judgment motions due 28 days later, on December
8; and replies in support of summary judgment motions due 14 days later, on December 22.

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