

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE:

CHEVROLET BOLT BATTERY
LITIGATION

MDL No. _____

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TRANSFER OF
ACTIONS PURSUANT TO 28 U.S.C. § 1407 FOR CONSOLIDATED
OR COORDINATED PRETRIAL PROCEEDINGS**

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Andres Torres, Thomas Whittaker, Carol Whittaker, Mary Elizabeth McQuarrie, DeShawn Dickinson, Greg Field, Joseph Poletti, James Kotchmar, and Robert Allen (“Moving Plaintiffs”), who are all Plaintiffs in the action *Torres v. General Motors LLC*, No. 1:20-cv-07109 (“*Torres Action*”) pending in the Northern District of Illinois against Defendant General Motors LLC (“GM” or “Defendant”), respectfully submit this memorandum of law in support of their Motion for Transfer of Actions Pursuant to 28 U.S.C. § 1407 for Consolidated or Coordinated Pretrial Proceedings.

I. INTRODUCTION

Moving Plaintiffs’ understanding is that there are currently five class actions that have been filed against GM involving the same subject matter and similar legal theories of liability are pending in four different federal courts in three different states. Specifically, the *Torres Action* and all of the Other Actions detailed below allege claims against GM arising from its November 2020 recall of model year 2017-2019 Chevrolet Bolt EVs (the “Class Vehicles”) due to the risk of fire posed by the car batteries when charged at or near full capacity (the “Battery Defect”). The *Torres Action* and Other Actions are as follows:

(a) The *Torres Action*, pending in the Northern District of Illinois, filed December 1, 2020;

(b) *Zahariudakis v. General Motors LLC*, No. 4:20-cv-08106, pending in the Northern District of California, filed Nov. 17, 2020 (“*Zahariudakis Action*”);

(c) *Pankow v. General Motors LLC*, No. 5:20-cv-02479, pending in the Central District of California, filed Nov. 29, 2020 (“*Pankow Action*”);

(d) *Altobelli v. General Motors LLC*, No. 2:20-cv-13256, pending in the Eastern District of Michigan, filed Dec. 11, 2020 (“*Altobelli Action*”); and

(e) *Rankin v. General Motors LLC*, No. 2:20-cv-13279, pending in the Eastern District of Michigan, filed Dec. 11, 2020 (“*Rankin Action*”).

All of these cases are putative class actions (collectively the “*Actions*”). To date, all *Actions* are virtually in the same procedural posture, whereby each presiding court has granted a Stipulation to extend time for Defendant to respond to the respective complaints on the following dates: *Pankow* action, response due February 3, 2021; *Torres* action, response due February 22, 2021; *Altobelli* action, response due March 1, 2021; *Rankin* action, response due March 4, 2021; and *Zahariudakis* action, response due March 5, 2021. Plaintiffs in the *Torres Action* (who are also the Moving Plaintiffs) have since filed an Amended Complaint on January 22, 2021, which added additional plaintiffs and additional claims under various state laws. *See Torres*, ECF No. 18. Moving Plaintiffs have reason to believe that at least one additional similar class action will be filed in yet another federal court.

As discussed herein, Moving Plaintiffs respectfully request that the Panel transfer and consolidate the *Torres Action* and the Other *Actions* to a single district for consolidated and/or coordinated pre-trial proceedings, and that such proceedings and any and all additional related actions that may be brought to the attention of the Panel against Defendant be assigned to the same court. Moving Plaintiffs further request that the Panel transfer and consolidate all *Actions* in the Eastern District of Michigan (the location of GM’s headquarters and where the *Altobelli Action* and *Rankin Action* are currently pending) and that the federal judge presiding over both the *Altobelli* and *Rankin Actions*, the Honorable Terrence G. Berg, be designated as the presiding Multi-District Litigation (“MDL”) judge. In the alternative, Moving Plaintiffs request that the Panel transfer and consolidate all *Actions* in the Northern District of Illinois before Judge Edmond E. Chang, the federal judge presiding over the *Torres Action*.

II. NATURE OF THE ACTIONS

The Actions allege that 2017-2019 Chevrolet Bolt EVs suffer from the Battery Defect that poses a fire risk and has resulted in an interim remedy by GM that has caused Bolt owners or lessees to suffer from severe loss of potential battery mileage in their high voltage batteries.

Specifically, on November 13, 2020, GM informed all of its authorized retailers of its intent to recall 68,667 Chevrolet Bolt EVs—over 50,000 of which are in the United States—equipped with design-level N2.1 batteries produced at LG Chem’s South Korea plant due to the battery pack posing a risk of fire when charged to full or near-full capacity. GM’s purported interim remedy to reduce the risk of fire is a software update that limits the maximum battery charge to approximately 90% battery capacity (or less), thereby reducing the mileage that these vehicles—advertised to have a range of 238 miles on a full charge—can otherwise travel on a full charge.

In order to implement this “remedy,” GM has instructed Bolt owners and lessees to schedule a service appointment with their local Chevrolet dealership to apply a software update to change the vehicle charge settings or, until such service appointment takes place, GM has instructed Bolt owners and lessees to make user modifications to the Bolt battery settings in order to limit the battery charge to 90%. Yet, prior to revealing the Battery Defect to Bolt owners and lessees in November 2020, GM had for years been encouraging consumers to charge their batteries to 100% as a regular practice, a practice that led Bolt owners and lessees to face an increased fire risk.

Despite being aware of serious battery problems with the Class Vehicles, GM actively concealed the Battery Defect from consumers and continued to make false representations regarding the Class Vehicle’s battery range. GM withheld the fact that the existence of the Battery Defect would diminish car owners’ usage of the Class Vehicles and would also depreciate their vehicle’s intrinsic and resale value. Instead, GM delayed issuance of a recall until after it knew of

battery problems and after several battery-related fires occurred in the Class Vehicles. GM chose to delay the recall in order to avoid the financial ramifications of having to acknowledge that the Class Vehicles' batteries were inherently defective and incapable of safely providing customers with GM's advertised 238-mile driving range.

III. ARGUMENT

Taking into account the *Torres* Action and the Other Actions, five class actions against GM related to this battery issue are pending in several federal district courts, with at least one more class action anticipated to be filed. Section 1407 authorizes the transfer of two or more civil actions, pending in different districts, for coordinated or consolidated pretrial proceedings, when (1) the “actions involv[e] one or more common questions of fact;” (2) transfer “will be for the convenience of parties and witnesses;” and (3) transfer “will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407. “The multidistrict litigation statute, 28 U.S.C. § 1407, was enacted as a means of conserving judicial resources in situations where multiple cases involving common questions of fact were filed in different districts.” *Royster v. Food Lion (In re Food Lion)*, 73 F.3d 528, 531-32 (4th Cir. 1996). Two critical goals of Section 1407 are to promote efficiency and consistency. *Illinois Mun. Ret. Fund v. Citigroup, Inc.*, 391 F.3d 844, 852 (7th Cir. 2004). The statute “was [also] meant to ‘assure uniform and expeditious treatment in the pretrial procedures in multidistrict litigation[,]’” and “[w]ithout it, ‘conflicting pretrial discovery demands for documents and witnesses’ might ‘disrupt the functions of the Federal courts.’” *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1230 (9th Cir. 2006) (quoting H.R. Rep. No. 1130, 90th Cong., 2d Sess. 1 (1968), reprinted in 1968 U.S.C.C.A.N. 1898, 1899). The alternative to appropriate transfer is “‘multiplied delay, confusion, conflict, inordinate expense and inefficiency.’” *Id.* (quoting *In re Plumbing Fixture Cases*, 298 F. Supp. 484, 495 (J.P.M.L. 1968)). Here, these factors weigh strongly in favor of transferring the Actions to the Eastern District of

Michigan for coordinated or consolidated pretrial proceedings, where GM is headquartered and where two Actions are currently pending, or in the alternative, the Northern District of Illinois, where the *Torres* Action is located.

A. The Related Cases Should Be Transferred to a Single Forum

These actions assert overlapping claims, based on multiple common factual allegations, and will involve common legal theories and themes. Consolidated pretrial treatment under Section 1407 will assist the parties and the courts in avoiding duplicative and conflicting rulings on the common issues in dispute. Granting this motion will also serve the convenience of the parties and witnesses and promote the just and efficient resolution of the litigation.

1. These Cases Involve Common Questions of Fact

The threshold requirement for centralization pursuant to Section 1407 is the presence of common questions of fact. *See* 28 U.S.C. § 1407. Although common questions must predominate, the statute does not require a “complete identity or even [a] majority” of common questions of fact to justify transfer. *In re Zyprexa Prods. Liab. Litig.*, 314 F. Supp. 2d 1380, 1381 (J.P.M.L. 2004).

Here, the common core of operative factual allegations—principally, whether the Class Vehicles are defective and were deceptively marketed to consumers—predominate over individual questions of fact in each Action. The five Actions here all arise from the same alleged Battery Defect, all Actions seek to certify classes made up of the same model years of Class Vehicles, and any potential defenses will likely depend on the same evidence. To the extent that differences among the cases exist, the transferee judge has broad discretion to employ any number of pretrial techniques to address those differences and efficiently manage the various aspects of the litigation. *See, e.g., In re Lehman Bros. Holdings, Inc.*, 598 F. Supp. 2d 1362, 1364 (J.P.M.L. 2009). Centralization in one district, with coordinated discovery, is thus appropriate because it will

minimize duplication of effort and burden on all parties. *See In re “Factor VIII or IX Concentrate Blood Prods.” Prod. Liab. Litig.*, 853 F. Supp. 454, 455 (J.P.M.L. 1993).

The Panel has repeatedly found that class actions alleging automobile defects and deceptive sales practices satisfy the standards for 28 U.S.C. § 1407 coordination and centralization. *See, e.g., In re GMC Air Conditioning Mktg. & Sales Practices Litig.*, 289 F. Supp. 3d 1340, 1341 (J.P.M.L. 2018) (concluding that centralization in the Eastern District of Michigan was appropriate where four actions pending in four districts “involve common factual issues arising from three similar putative nationwide class actions and one putative California statewide class action that concern the design, manufacture and performance of the air conditioners in several models of GM vehicles”); *In re Am. Honda Motor Co., Inc. CR-V Vibration Mktg. & Sales Practices Litig.*, 140 F. Supp. 3d 1336, 1337 (J.P.M.L. 2015) (coordinating six actions pending in five districts that arose out of common “allegations that the 2015 Honda CR-V has a defect or defects that cause the vehicle to vibrate excessively”); *In re Ford Fusion & C-Max Fuel Econ. Litig.*, 949 F. Supp. 2d 1368, 1369 (J.P.M.L. 2013) (centralizing seven actions pending in four districts, reasoning that “[t]hese putative nationwide or statewide class actions share factual questions arising from Ford’s alleged false or misleading advertising regarding the mileage estimates for its Fusion Hybrid and C-Max Hybrid vehicles”).

Moreover, centralization will minimize the risk of inconsistent rulings. All pending actions rely upon similar legal theories of recovery, seek class certification under Federal Rule of Civil Procedure 23, and share related underlying legal theories of liability concerning GM’s conduct in marketing the Class Vehicles and concealing the Battery Defect in the Class Vehicles as well as the risks and reduced battery range stemming from the Battery Defect. Because numerous common issues of fact exist among these cases, the pending actions clearly satisfy the first element of the

transfer analysis under Section 1407. *See, e.g., In re Heartland Payment Sys. Customer Data Sec. Breach Litig.*, 626 F. Supp. 2d 1336, 1337 (J.P.M.L. 2009) (“[W]e find that these actions involve common questions of fact, and that centralization under Section 1407 . . . will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. . . . Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary.”).

2. **Transfer Will Serve the Convenience of the Parties and Prevent Duplicative Discovery**

The convenience of the parties and prevention of duplicative discovery also favor transfer. *See* 28 U.S.C. § 1407. At present all of the cases are in their infancy, having all been filed within the last few months. If these cases continue to proceed separately, there will be duplicative discovery because of the many overlapping issues of fact and law. Multiple cases could involve the repetitive depositions of the same GM company representatives and expert witnesses, as well as production of the same records and responses to duplicative interrogatories and document requests in jurisdictions around the country. *See, e.g., In re: Pilot Flying J Fuel Rebate Contract Litig.*, 11 F. Supp. 3d 1351, 1352 (J.P.M.L. 2014) (“Centralization will avoid repetitive depositions of Pilot’s officers and employees and duplicative document discovery regarding the alleged scheme.”). Absent transfer, the federal court system will be forced to administer—and GM will be compelled to defend—these related actions across multiple venues, all proceeding on potentially different pretrial schedules and subject to different judicial decision-making and local procedural requirements.

All of the Actions are at very early stages such that none have progressed to the point where efficiencies will be forfeited through transfer to an MDL proceeding. This Panel has routinely

recognized that consolidating litigation in one court benefits *both* plaintiffs and defendants. For example, pretrial transfer would reduce discovery delays and costs for plaintiffs and permit plaintiffs' counsel to coordinate their efforts and share the pretrial workload while GM's document production will be centralized and travel obligations for its personnel will be minimized. *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 173 F. Supp. 2d 1377, 1379 (J.P.M.L. 2001) (“And it is most logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary, thereby effectuating an overall savings of cost and a minimum of inconvenience to all concerned.”).

3. Transfer Will Promote the Just and Efficient Conduct of These Actions

The Panel recognizes multiple factors as informing whether the just and efficient conduct of a litigation will be advanced by transfer, including: (i) avoidance of conflicting rulings in various cases; (ii) prevention of duplication of discovery on common issues; (iii) avoidance of conflicting and duplicative pretrial conferences; (iv) advancing judicial economy; and (v) reducing the burden on the parties by allowing division of workload among several attorneys. *See, e.g., In re: Endangered Species Act Section 4 Deadline Litig.*, 716 F. Supp. 2d 1369, 1369 (J.P.M.L. 2010); *In re Bristol Bay, Salmon Fishery Antitrust Litig.*, 424 F. Supp. 504, 506 (J.P.M.L. 1976).

All of these factors will be advanced by transfer here. Moving Plaintiffs are aware of five cases (inclusive of their own) currently filed and, as discussed above, they anticipate at least one additional case to be filed. Under this *status quo*, at least four different federal district courts will be ruling on the many common factual and legal issues presented in these cases. The presence of numerous courts currently involved in this litigation creates a clear risk of conflicting rulings, with

the potential to generate significant confusion and conflict among the parties, not to mention inconsistent obligations on GM.

The Panel has regularly transferred and coordinated proceedings in situations where there had been multiple cases filed with similar allegations. *See In re First Nat'l Collection Bureau, Inc.*, 11 F. Supp. 3d 1353, 1354 (J.P.M.L. Apr. 8, 2014) (panel finding where three actions had been filed and one potential tag-along action had been identified, “efficiencies can be gained from having these actions proceed in a single district,” such as “eliminat[ing] duplicative discovery; prevent[ing] inconsistent pretrial rulings . . . and conserv[ing] the resources of the parties, their counsel and the judiciary.”); *In re Sprouts Farmers Market, Inc., Employee Data Security Breach Litig.*, MDL-2731 (J.P.M.L.) (multi-district litigation consisting of four related cases); *In re Natrol, Inc., Glucosamine/Chondroitin Marketing and Sales Practices Litig.*, MDL-2528 (J.P.M.L.) (multi-district litigation consisting of four related cases); *In re Wholesale Grocery Prods. Antitrust Litig.*, MDL-2090 (J.P.M.L.) (finding that multi-district litigation consisting of two related cases would achieve efficiencies); *In re Gold King Mine Release in San Juan Cnty., Colo., on Aug. 5, 2015*, MDL-2824 (J.P.M.L.) (multi-district litigation consisting of four related cases would promote “just and efficient conduct”).

A single MDL judge coordinating pretrial discovery and ruling on pretrial motions in all of these federal cases at once will help reduce witness inconvenience, the cumulative burden on the courts, the litigation’s overall expense, and the potential for conflicting rulings. *In re: Xarelto (Rivaroxaban) Prods. Liab. Litig.*, 65 F. Supp. 3d 1402, 1405 (J.P.M.L. 2014) (“Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.”); *In re Tylenol Mktg., Sales Practices &*

Prods. Liab. Litig., 936 F. Supp. 2d 1379, 1380 (J.P.M.L. 2013) (“Centralization will . . . prevent inconsistent pretrial rulings (on *Daubert* issues and other matters) . . .”).

Accordingly, transfer to a single district court is appropriate for the just and efficient resolution of these cases.

B. The Most Appropriate Transferee Forum is the Eastern District of Michigan or, Alternatively, the Northern District of Illinois

The district court with the strongest nexus to the litigation is often selected as the transferee court. *See, e.g., In re: Reciprocal of Am. (ROA) Sales Practices Litig.*, 281 F. Supp. 2d 1356, 1358 (J.P.M.L. 2003). Although Moving Plaintiffs did not initiate their action in the Eastern District of Michigan, given the additional cases that have been filed since that case was initiated—two of which are filed in the Eastern District of Michigan—Moving Plaintiffs now recognize the benefits and efficiencies of transferring all Actions for coordinated or consolidated proceedings to the Eastern District of Michigan to proceed before a single Judge. Alternatively, Moving Plaintiffs support transferring the cases to the Northern District of Illinois before Judge Edmond E. Chang, where the *Torres* Action is currently pending.

1. The Eastern District of Michigan Has the Strongest Nexus to the Litigation

a. *GM Maintains Its Headquarters and Substantial Operations in the Eastern District of Michigan*

GM maintains its headquarters in Detroit, Michigan and operates 30 facilities and employs nearly 49,000 employees in the state of Michigan.¹ GM’s facilities, including its fully dedicated EV assembly factory, powertrain production plant, and many other various operations, assembly,

¹ <https://www.gm.com/our-company/about-gm.html> (last visited Jan. 20, 2021).

and production centers are located in the District.² As such, it is likely that GM employees and executives who have knowledge regarding the manufacture, design, testing, and sales of the Class Vehicles and their batteries are located in the District,³ as well as those familiar with the November 2020 battery-related recall and “interim remedy” resulting in reduced battery capacity and driving range. Likewise, a significant portion of the events and decision-making relating to the marketing and concealment of the Battery Defect in the Class Vehicles likely occurred at GM’s business headquarters in Michigan. As such, it is likely that Michigan has more relevant defense witnesses and relevant documents than any other state. *See In re GMC Air Conditioning Mktg. & Sales Practices Litig.*, 289 F. Supp. 3d at 1341 (transferring actions involving the performance of air conditions in several models of GM vehicles to the Eastern District of Michigan “which enjoys the support of most responding parties, is where relevant documents and witnesses may be found, inasmuch as defendant GM is based there”); *In re General Motors Corporate Securities & Derivative Litig.*, 429 F. Supp. 2d 1368 (J.P.M.L. 2006) (transferring two actions from the Southern District of New York to the Eastern District of Michigan because the latter “district is where many relevant documents and witnesses are likely to be found, inasmuch as GM’s principal place of business is located there”); *In re General Motors Onstar Contract Litig.*, 502 F. Supp. 2d 1357 (J.P.M.L. 2007) (transferring action from the Northern District of California to the Eastern District of Michigan because “relevant documents and witnesses are likely located in or near defendants’ facilities in Michigan”).

² <https://www.gm.com/our-company/us/mi.html> (last visited Jan. 21, 2021).

³ The LG battery itself was manufactured in South Korea.

b. *The Eastern District of Michigan Is a Convenient Forum for Litigants*

The Eastern District of Michigan is plainly a convenient and readily accessible location. Detroit is a centrally-located major metropolitan area that is easily accessible by nearby airports: Detroit Metropolitan Wayne County Airport (Detroit, Michigan) and Bishop International Airport (Flint, Michigan). Two cases (*Rankin* and *Altobelli*) were filed in this district and have already been consolidated before Judge Terrence G. Berg. See *Rankin*, No. 20-13279, at ECF No. 4. The Panel has previously recognized previously that “the Eastern District of Michigan provides a geographically central location for [a] nationwide litigation” when other actions were pending in Pennsylvania, Illinois, Colorado, Georgia, California, New York, and Texas (as compared to California, Michigan, and Illinois here). *In re Rio Hair Naturalizer Prod. Liab. Litig.*, 904 F. Supp. 1407, 1408 (J.P.M.L. 1995); see also *In re GMC Air Conditioning Mktg. & Sales Practices Litig.*, 289 F. Supp. 3d at 1341 (noting that the Eastern District of Michigan “offers a readily accessible and convenient transferee forum”).

As discussed above, the Eastern District of Michigan contains the headquarters and center of GM’s operations. See *In re GAF Elk Cross Timbers Decking Mktg., Sales Practices & Prods. Liab. Litig.*, 65 F. Supp. 3d 1407, 1408 (J.P.M.L. 2014) (transferring MDL to the District in which the common defendant was headquartered); *In re Bluetooth Headset Prods. Liab. Litig.*, 475 F. Supp. 2d 1403, 1404 (J.P.M.L. 2007) (same)); *In re RC2 Corp. Toy Lead Paint Prods. Liab. Litig.*, 528 F. Supp. 2d 1374, 1375 (J.P.M.L. 2007) (same). By contrast, the other related cases that were not filed in the Eastern District of Michigan (*Torres* (N.D. Ill.), *Zahariudakis* (N.D. Cal.), and *Pankow* (C.D. Cal.)) were all filed in the district where the lead plaintiffs reside.

c. *The Related Cases Should Be Assigned to Judge Terrence G. Berg*

The *Rankin* and *Altobelli* Actions have already been identified as companion cases and assigned to Judge Terrence G. Berg. Judge Berg has been on the bench for nine years and is highly experienced in managing and overseeing class action litigation, including those arising from automobile defects. *See, e.g., Persad v. Ford Motor Co.*, No. 17-12599, 2018 U.S. Dist. LEXIS 117551, at *1 (E.D. Mich. July 16, 2018) (Judge Berg oversaw a putative class action concerning 2016 and 2017 model year Ford Explorers that allegedly had an “exhaust fume defect” which allowed dangerous gases to enter the passenger compartment); *Raymo v. FCA US LLC*, No. 2:17-cv-12168, 2020 U.S. Dist. LEXIS 134829, at *2 (E.D. Mich. July 30, 2020) (Judge Berg adjudicated a nationwide class action alleging defects in the emissions aftertreatment systems of model year 2013-2017 Dodge 2500 and 3500 Ram trucks diesel engines). Thus, he is extremely well-suited to efficiently and effectively manage this consolidated litigation.

Furthermore, the Eastern District of Michigan currently has only four MDLs pending before three district judges. However, Judge Berg is not assigned any other MDL matter at present.⁴ This, paired with his exceptional judicial experience, make Judge Berg particularly well-suited to oversee this MDL.

2. Alternatively, the Northern District of Illinois Is an Appropriate Transferee Forum

a. *The Torres Action, Currently Pending in the Northern District of Illinois, Is the Most Procedurally Advanced and Contains the Greatest Number of Plaintiffs*

Should the Panel nonetheless decide that the Eastern District of Michigan is not the appropriate transferee forum, the Actions should all be transferred to the Northern District of

⁴ *See* https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets_By_District-January-15-2021.pdf, at page 3 (last visited Jan. 21, 2021).

Illinois, where the *Torres* Action is currently pending. Three plaintiffs in the *Torres* Action—plaintiff Torres and plaintiffs Thomas and Carol Whittaker—reside in the Northern District of Illinois, and the events giving rise to lead plaintiff Torres’s claims occurred in that district, which is why the *Torres* Action was initially filed there. The *Torres* Action is the most procedurally advanced: the *Torres* plaintiffs have just filed an Amended Complaint and have hired an expert to inform their allegations. *See Torres*, ECF No. 18, ¶¶ 52-53 (allegations informed by Moving Plaintiffs’ expert). Moreover, the *Torres* Action contains the greatest number of plaintiffs out of all of the Actions: nine plaintiffs hailing from five different states. None of the Other Actions have gotten to the amended complaint stage nor have plaintiffs in the Other Actions indicated that they have retained an expert to assist. At least as an alternative, these factors weigh in favor of transfer to the Northern District of Illinois where the *Torres* Action is currently pending. *See In re Transocean Tender Offer Sec. Litig.*, 415 F. Supp. 382, 384 (J.P.M.L. 1976) (transferring MDL to the Northern District of Illinois where “the Illinois action [was] more advanced than either of the other actions in [the] litigation”).

b. *The Northern District of Illinois Is a Highly Convenient Forum*

The Northern District of Illinois is very readily accessible and is a convenient forum. Chicago is the third largest city in the country, is centrally-located, and is accessible by two international airports: O’Hare and Chicago Midway. The Panel has previously concluded that the Northern District of Illinois “provides a convenient and accessible forum for actions filed throughout the country regarding products sold nationwide.” *In re Walgreens Herbal Supplements Mktg. & Sales Practices Litig.*, Nos. MDL No. 2619, MDL No. 2620, MDL No. 2621, MDL No. 2622, 2015 U.S. Dist. LEXIS 77377, at *8 (J.P.M.L. June 11, 2015); *see also In re Fairlife Milk Prods. Mktg. & Sales Practices*, 396 F. Supp. 3d 1370, 1371 (J.P.M.L. 2019)

(“The Northern District of Illinois thus presents a convenient and accessible forum for this litigation.”). GM’s headquarters and the center of operations are also relatively nearby.

c. Judge Chang is Well-Positioned to Handle this MDL Proceeding

Judge Chang, who is currently presiding over the *Torres* Action, is a skilled jurist with MDL and class action experience. Judge Chang was recently assigned the MDL proceedings in *In re Soc’y Ins. Co. Covid-19 Bus. Interruption Prot. Ins. Litig.*, No. MDL No. 2964, (J.P.M.L.). In its transfer order, the Panel expressed its confidence that Judge Chang, who had not yet “had the opportunity to preside over an MDL,” would “steer this litigation on a prudent and expeditious course.” *In re Soc’y Ins. Co. Covid-19 Bus. Interruption Prot. Ins. Litig.*, No. MDL No. 2964, 2020 U.S. Dist. LEXIS 183678, at *7-8 (J.P.M.L. Oct. 2, 2020). At the time of transfer, that MDL encompassed 34 actions. Judge Chang is similarly well-prepared and well-equipped to manage this consolidated litigation.

Judge Chang has been on the federal bench since 2010, and has experience handling complex class actions, including product defect cases involving deceptive marketing and breach of warranty. *See, e.g., Fuchs v. Menard, Inc.*, No. 17-cv-01752, 2017 U.S. Dist. LEXIS 160336, at *16 (N.D. Ill. Sep. 29, 2017) (class action alleging deceptive marketing practices in lumber products); *Duncan Place Owners Ass’n v. Danze, Inc.*, No. 15 C 01662, 2015 U.S. Dist. LEXIS 122985, at *2 (N.D. Ill. Sep. 15, 2015) (class action stemming from the allegedly fraudulent and deceptive marketing of faulty faucets). Also, Judge Chang is currently presiding over the *Torres* Action, wherein the plaintiffs recently filed an Amended Complaint. *See, e.g., In re NuvaRing Prods. Liab. Litig.*, 572 F. Supp. 2d 1382, 1383 (J.P.M.L. 2008) (the Panel assigned the “litigation to an experienced jurist who is familiar with the contours of this litigation by virtue of having

presided over the most procedurally advanced action”). Accordingly, Judge Chang is well-suited to oversee this auto defect MDL.

IV. CONCLUSION

For all of the reasons set forth above, Moving Plaintiffs respectfully request that the Panel transfer the Actions and any subsequent tagalong actions involving the Battery Defect in Class Vehicles to the Eastern District of Michigan for coordinated or consolidated pretrial proceedings before Judge Berg or, in the alternative, to the Northern District of Illinois before Judge Chang.

Dated: January 22, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 22nd day of January, 2021, a true and correct copy of the above and foregoing was filed with the Clerk of Court via the Court's CM/ECF system for electronic service on all counsel of record.

By: /s/ Benjamin F. Johns
Benjamin F. Johns