



FILED BUTLER  
COURT OF COMMON PLEAS  
Plaintiffs  
SEP 26 2019  
MARY L. SWAIN  
CLERK OF COURTS

vs.

FCA US LLC,  
TRI STATE CONCRETE INC. and  
TRACY WAYNE MOORE

*Defendants.*

CASE NO. 2018-07-1583

COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

JUDGE: J. GREGORY HOWARD

**ENTRY ON PENDING MOTIONS**

This matter came before the Court on September 19, 2019 on the following motions: (1) Plaintiff's Second Motion to Compel (filed August 22, 2019); (2) Defendant FCA US LLC's Motion to Compel (filed August 26, 2019); (3) Plaintiff's Motion in Limine to Admit Depositions of Sergio Marchionne and Other Similar Incident Witnesses (filed August 28, 2019); and (4) Plaintiff's Motion to Strike FCA's September 16, 2019 'Notice of Non-Opposition' (filed September 16, 2019). After hearing the arguments of counsel and reviewing the parties' briefs, the Court rules as follows.

**Plaintiff's Motion in Limine to Admit Depositions  
of Sergio Marchionne and Other Similar Incident Witnesses.**

As to the depositions of Sergio Marchionne and the twelve Other Incident/Other Similar Incident witnesses from *Walden v. Chrysler Group, LLC*, the Court, finding that the subject matter is the same in this case as it was in the *Walden* case, GRANTS Plaintiff's Motion in Limine in part in that the depositions will not need to be retaken in this matter. IT IS FURTHER ORDERED that the Court shall hold a hearing on January 23, 2020 (a date agreed upon by counsel) to determine whether the incidents referenced in the twelve depositions of the Other

Incident/Other Similar Incident witnesses from *Walden v. Chrysler* along with any additional Other Incidents/Other Similar Incidents are admissible for the purpose of establishing notice to FCA US LLC ("FCA").

**Plaintiff's Second Motion to Compel**

As it relates to fire, fuel leakage, gas tank damage, or fuel system integrity and as it relates to any documents discussing evaluating or analyzing the advantages, disadvantages, costs or safety of rear-mounted gas tanks compared or contrasted to mid-ship tanks (i.e., Requests for Production 32 and 33 from Plaintiff's First Requests for Production), the Court GRANTS Plaintiff's Second Motion to Compel . IT IS FURTHER ORDERED that, without relying solely on the previous searches conducted in the National Highway Traffic Safety Administration investigation, the *Walden v. Chrysler Group, LLC* case, the *White v. FCA US LLC* case, or any other cases similar to the aforementioned cases, FCA is to produce any responsive documents, including emails and internal communications, that are identified after a reasonable and diligent search and inquiry in the places in the company that FCA would expect to find responsive documents. IT IS FURTHER ORDERED that, in responding to these requests, FCA is to certify that such has been done. IT IS FURTHER ORDERED that FCA shall fully and completely respond to these requests no later than October 19, ~~2019~~ 2019.

As it relates to Plaintiff's Request for Production No. 24, the Court DEFERS ruling on Plaintiff's Second Motion to Compel. IT IS FURTHER ORDERED that Plaintiff shall provide FCA with support for Plaintiff's position that the driver seat of the 1998-2006 Jeep Wranglers is substantially similar to the driver seat of the 2002-2007 Liberty. In the event FCA does not in good faith agree that the two driver seats are substantially similar and refuses to produce

responsive documents regarding the driver seat of the 1998-2006 Jeep Wrangler, Plaintiff may re-urge his Second Motion to Compel with respect to Request for Production No. 24.

As it relates to Plaintiff's Request for Production 57 and Interrogatory 28, IT IS FURTHER ORDERED that Plaintiff's Motion to Compel is MOOT based on FCA's representation that FCA has fully and completely responded to these discovery requests.

**FCA's Motion to Compel**

The Court takes FCA's Motion to Compel UNDER ADVISEMENT.

**Plaintiff's Motion to Strike FCA's September 16, 2019 'Notice of Non-Opposition'**

FCA having withdrawn its September 16, 2019 Notice of Non-Opposition, Plaintiff's Motion to Strike is MOOT.

SO ORDERED.



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Judge J. Gregory Howard

Respectfully submitted this 25<sup>th</sup> day of September, 2019.

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