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GM Transmission Defect Claims Belong In Detroit, Judge Says

By **Hannah Albarazi**

Law360 (June 6, 2019, 9:50 PM EDT) -- A proposed class action alleging defects in General Motors transmissions should be transferred from Florida to the automaker's home base of Detroit, where an identical suit has already been filed, a federal magistrate judge in the Sunshine State recommended Thursday.

GM had requested the transfer of the Florida suit, which contends that defects in certain automatic transmissions cause vehicles to shake violently, saying most of the witnesses were in Michigan.

U.S. District Magistrate Judge Bruce Reinhart agreed the case should be moved to Michigan federal court so as not to waste judicial resources and for the convenience of the parties.

"Here, the court agrees with GM that the crux of this case involves the design and manufacture of an allegedly defective transmission, GM's internal testing, and alleged concealment of the defect," Judge Reinhart wrote in his recommendation. "The fact that these activities occurred in Michigan weighs heavily in favor of transfer."

Judge Reinhart said it's "inconsequential" to the court that the named plaintiffs in the Florida complaint and the Michigan complaint differ, stating that only the classes, and not the class representatives, are compared in class actions.

An attorney for the motorists said his side can accept the magistrate judge's recommendation to grant GM's transfer request.

"We are just as happy to be going to Michigan, where most of the discovery, documents and engineers are located and where the decisions leading to the defective GM transmissions were all made," Theodore Leopold of Cohen Milstein Sellers & Toll PLLC told Law360 on Thursday.

"Additionally, the case will be consolidated with other GM transmission defect cases that are pending before Judge Lawson," Leopold said, referring to U.S. District Judge David M. Lawson of the Eastern District of Michigan. "Those cases involve states such as New York, California, Michigan, Texas, and many other large and small states. Therefore, we will now be representing a nationwide group of GM owners from all states in one court, before one judge, Judge Lawson."

In its April motion to transfer the action to federal court in Detroit, GM said keeping one lawsuit in Florida and one in Michigan risked inconsistent judgments.

Judge Reinhart noted that inconsistent rulings threaten to undermine the public's confidence in the judicial system.

GM also sought transfer to Michigan since most of the witnesses with knowledge about the design, marketing, and manufacturing of the vehicles, and the allegedly defective transmissions, are located in there.

The complaints, filed last year, both allege that two automatic transmission models used in GM vehicles manufactured between 2015 and 2019 cause significant shaking and shuddering when

changing gears.

Drivers reported that shifting is sometimes so violent it feels as if they were hit by another vehicle, the complaints said.

The shuddering is related to internal issues in transmissions and torque converters that damage the components, and GM's inability to resolve the known defect makes it liable for breaches of warranty and state consumer protection laws, the complaints said.

After GM motioned for the dismissal of the initial Florida suit in February, five of the seven driver plaintiffs conceded that they were not residents of the Sunshine State and agreed to dismiss their claims for lack of jurisdiction in the Florida federal court.

The remaining two Florida plaintiffs are now listed among the seven plaintiffs in the Michigan action.

Representatives for GM did not immediately respond to a request for comment Thursday.

The Florida plaintiffs are represented by Michael L. Pitt and Beth M. Rivers of Pitt McGehee Palmer & Rivers PC; Theodore J. Leopold, Andrew N. Friedman, Douglas J. McNamara and Julia A. Horwitz of Cohen Milstein Sellers & Toll PLLC; and Robert Gordon and Steven Calamusa of Gordon & Partners.

GM is represented by Jonathan Etra and Christopher Cavallo of Nelson Mullins Broad and Cassel, and Kathleen Taylor Sooy, Jared A. Levine and Justin Kingsolver of Crowell & Moring LLP.

The case is Duffy et al. v. General Motors Inc., case number 9:18-cv-81726, in the U.S. District Court for the Southern District of Florida. The overlapping case is Francis et al. v. General Motors LLC, 2:19-cv-11044, in the U.S. District Court for the Eastern District of Michigan.

--Additional reporting by Dean Seal. Editing by Jill Coffey.

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