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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended  
Acceleration Marketing, Sales  
Practices, and Products Liability  
Litigation

CASE NO: 8:10ML2151 JVS (FMOx)

This document relates to:  
  
ALL CASES

AMENDMENT TO ORDER NO. 5:  
PHASE I DISCOVERY

The Phase I Discovery Plan anticipated that there would be coordination with other state and federal proceedings. (E.g., Order No. 5, § 1.D.) However, the mechanics of such coordination were not spelled out.

On August 24, 2010, the Court received letter briefs and conducted a telephone conference concerning Phase I Rule 30(b)(6) depositions which will commence next week. The Court determined that there should be an explicit opportunity for state counsel in Toyota cases and counsel in other Toyota federal proceedings (“non-MDL counsel”) to participate in these depositions. The Court

1 also determined the narrow scope of these depositions should be maintained both  
2 in focus and general time limitations.

3  
4 Apart from clarifying the mechanics for participation of non-MDL counsel,  
5 the Court believes that three topics are broader in scope than the majority of the  
6 essentially foundational topics, and that a time adjustment should be made now.  
7 These are topics 11, 12, and 16.<sup>1</sup>

8  
9 Accordingly, the Court amends the first two paragraphs of Section IV.C of  
10 Order No. 5 in full as follows:

11  
12 With respect to topics other than topics 11, 12, and 16, consistent with  
13 Fed. R. Civ. P. 30(d)(1),

14  
15 • the deposition of each native English-speaking deponent shall  
16 be limited to seven and one half (7 1/2) total hours, excluding  
17 time taken for breaks, meals, and other reasons, and not extend  
18 beyond one (1) day, except by agreement of the Parties or with  
19 leave of the Special Masters or the Court; provided that one (1)  
20 hour shall be allocated to non-MDL counsel, and that non-MDL  
21 counsel may use any unused time allocated to MDL counsel;

22  
23 • the deposition of each non-native English speaking deponent  
24 shall be limited to ten and one half (10 1/2) total hours,  
25 excluding time taken for breaks, meals, and other reasons, and

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26 <sup>1</sup>Of course, the actual conduct of these depositions may indicate that additional time is  
27 required for other topics, and the Plan deals with that possibility. (Order No. 5., § IV.C.)

1 not extend beyond one (1) day, except by agreement of the  
2 Parties or with leave of the Special Masters or the Court;  
3 provided that one (1) hour shall be allocated to non-MDL  
4 counsel, and that non-MDL counsel may use any unused time  
5 allocated to MDL counsel.

6  
7 With respect to topics 11, 12, and 16, consistent with Fed. R. Civ. P.  
8 30(d)(1),

9  
10 • the deposition of each native English-speaking deponent shall  
11 be limited to eight and one half (8 1/2) total hours, excluding  
12 time taken for breaks, meals, and other reasons, and not extend  
13 beyond one (1) day, except by agreement of the Parties or with  
14 leave of the Special Masters or the Court; provided that two (2)  
15 hours shall be allocated to non-MDL counsel, and that non-  
16 MDL counsel may use any unused time allocated to MDL  
17 counsel;

18 • the deposition of each non-native English speaking deponent  
19 shall be limited to eleven and one half (11 1/2) total hours,  
20 excluding time taken for breaks, meals, and other reasons, and  
21 not extend beyond one and one half (1 1/2) days, except by  
22 agreement of the Parties or with leave of the Special Masters or  
23 the Court; provided that two (2) hours shall be allocated to non-  
24 MDL counsel, and that non-MDL counsel may use any unused  
25 time allocated to MDL counsel.

26  
27 In making these changes, the Court has several goals. First, the Court

1 acknowledges that if efficiencies for the judiciary as a whole in the United States  
2 and the litigants in the related actions pending throughout the United States are to  
3 be achieved, the participation of non-MDL counsel is important and necessary.  
4 The Court anticipates that more extensive opportunities for non-MDL counsel to  
5 participate will be provided in the Phase II Discovery Plan which will cover the  
6 remaining discovery.<sup>2</sup> Second, at the same time, the Court acknowledges that the  
7 participation on non-MDL counsel in these proceedings is voluntary, and is not  
8 intended to preempt or coopt rights which they may have in their home  
9 jurisdictions. Third, in fairness to all the parties, the Court anticipates that non-  
10 MDL counsel will not seek to repeat in their separate proceedings the discovery in  
11 which they have participated and which they have taken in these MDL  
12 proceedings. Such a result would be unfair to the Toyota defendants and would  
13 undermine the collaborative efforts supported by the plaintiffs' leadership counsel  
14 in these proceedings, particularly the efforts of the Liaison Committee for State  
15 and other Federal Litigation. (See Order No. 2, § 1.)

16 The parties have proposed separate forms of orders dealing with additional  
17 mechanics for coordination, and the Court will shortly be entering a further order.

18  
19 In view of the parties' agreement on additional Rule 30(b)(6) topics, the  
20 Court amends Section II.A.1 to add the following topics:

- 21  
22 22. The identity, nature, and location, and retention of documents  
23 related to the design and testing of brake override systems in Toyota  
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25 <sup>2</sup>In contrast to Phase II, the majority of deposition topics in Phase I are foundational, and  
26 it seems unlikely that the peculiarities of the non-MDL cases would elicit substantially different  
27 testimony.

1 vehicles.

2  
3 23. The identity of the persons and departments involved in the  
4 design, evaluation, and testing of brake override systems in Toyota  
5 vehicles.

6  
7 24. A general description of the brake override systems in Toyota  
8 vehicles.

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10 IT IS SO ORDERED.

11 Dated: August 26, 2010



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14 James V. Selna  
15 United States District Judge  
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