

1 STEVE W. BERMAN
(WA SBN 12536)
2 Email: steve@hbsslw.com
3 **HAGENS BERMAN SOBOL**
SHAPIRO LLP
4 1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
5 Telephone: (206) 268-9320
Facsimile: (206) 623-0594

6 MARC M. SELTZER
(CA. SBN 054534)
7 Email: mseltzer@susmangodfrey.com
8 **SUSMAN GODFREY L.L.P.**
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
9 Telephone: (310) 789-3102
Facsimile: (310) 789-3006

10 FRANK M. PITRE (CA SBN 100077)
11 Email: fpitre@cpmlegal.com
12 **COTCHETT, PITRE**
& MCCARTHY
13 840 Malcolm Road, Suite 200
Burlingame, CA 94010
14 Telephone: (650) 697-6000
Facsimile: (650) 697-0577

15 *Co-Lead Plaintiffs' Counsel for*
16 *Economic Loss Cases*

17 ELIZABETH J. CABRASER
(CA SBN 083151)
18 Email: ecabraser@lchb.com
19 **LIEFF CABRASER HEIMANN**
& BERNSTEIN, LLP
20 275 Battery Street, Suite 3000
San Francisco, CA 94111
21 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

22 MARK P. ROBINSON, JR.
(CA. SBN 54426)
23 Email: beachlawyer51@hotmail.com
24 **ROBINSON, CALCAGNIE**
& ROBINSON INC.
25 620 Newport Center Drive, 7th Floor
Newport Beach, CA 92660
26 Telephone: (949) 720-1288
Facsimile: (949) 720-1292

27 *Co-Lead Plaintiffs' Counsel for*
28 *Personal Injury/Wrongful Death Cases*

CARI K. DAWSON (GA SBN 213490)
Email: cari.dawson@alston.com
ALSTON + BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
Telephone: (404) 881-7766
Facsimile: (404) 253-8567

LISA GILFORD (CA SBN 171641)
Email: lisa.gilford@alston.com
ALSTON + BIRD LLP
333 South Hope Street, 16th Floor
Los Angeles, CA 90071
Telephone: (213) 576-1000
Facsimile: (213) 576-1100

Lead Defense Counsel for Economic Loss
Cases

VINCENT GALVIN, JR. (CA SBN 104448)
Email:
vincent.galvinjr@bowmanandbrooke.com
BOWMAN AND BROOKE
1741 Technology Drive, Suite 200
San Jose, CA 95110
Telephone: (408) 279-5393
Facsimile: (408) 279-5845

JOEL SMITH (SC SBN 5266)
Email: joel.smith@bowmanandbrooke.com
BOWMAN AND BROOKE
1441 Main Street, Suite 1200
Columbia, SC 29201
Telephone: (803) 726-7420
Facsimile: (803) 726-7421

Lead Defense Counsel for Personal
Injury/Wrongful Death Cases

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3
4 IN RE: TOYOTA MOTOR CORP.
5 UNINTENDED ACCELERATION
6 MARKETING, SALES PRACTICES, AND
7 PRODUCTS LIABILITY LITIGATION

Case No.: 8:10ML2151 JVS (FMOx)

**ORDER NO. 15: PHASE II
DISCOVERY PLAN**

8 This document relates to:

9 ALL CASES

10 During the hearing on July 18, 2011, following the agreement of the parties, the
11 Court instructed the parties to “prepare an order memorializing the dates for the
12 completion of Phase 2 discovery.” July 18, 2011 Hrg. Trans., at 37:19-21. The table
13 in section II of this Order reflects the dates for the completion of the Phase II
14 document production and additional items agreed to between the parties.

15 **I. OVERVIEW OF PHASE II COMPLETION DISCOVERY**

16 **A. General Description Of Discovery To Be Conducted During The**
17 **Completion Of Phase II**

18 During Phase II, the Toyota Defendants (“Toyota” or “Defendants”) will
19 produce documents responsive to Requests for Production (“RFPs”) sets 1 through 7.¹
20 The documents produced during Phase II will not be limited to documents collected
21 from “Named Custodians,” meaning those custodians specifically identified by
22 Plaintiffs in the RFPs as a result of Phase I discovery (hereinafter, the “Named
23 Custodians”). During Phase II, the parties shall provide all discovery as available
24 during Phase I including but not limited to vehicle inspections, supplemental plaintiff
25 and defense fact sheet productions, and third-party discovery. Additionally, Plaintiffs

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28 ¹ This Order is not intended to deprive Defendants of their right to object to these RFPs or alter the Parties obligations or rights under the Federal Rules of Civil Procedure.

1 and Defendants shall also provide discovery contemporaneously to the discovery in
 2 this Order pursuant to the terms of the Scheduling Order for Phase III Discovery Plan,
 3 to be entered following the upcoming Hearing on August 1, 2011.

4 **B. Time Period For Completion Of Phase II Discovery**

5 Phase II Completion Discovery shall commence upon the entry of this Order
 6 and shall extend on a rolling basis until January 31, 2012, as outlined in the document
 7 production schedule below.

8 **II. DOCUMENT PRODUCTION SCHEDULE**

9 The Court adopts the following schedule regarding document discovery
 10 directed at Toyota in the first seven sets of RFPs served by the Plaintiffs:

Toyota Document Discovery	Deadline
Predecessor versions of Core Technical documents in for Camry, ES and Tacoma	<i>By <u>September 21, 2011</u></i>
Documents from Plaintiffs' English- language Named Custodians	<i>By <u>September 21, 2011</u></i>
2/3 of Documents for Plaintiffs' Japanese-language Named Custodians	<i>By <u>September 21, 2011</u></i>
Remaining 1/3 of Documents for Plaintiffs' Japanese-language Named Custodians	<i>By <u>October 31, 2011</u></i>
RFP responsive English Documents from additional sources	<i>By <u>November 21, 2011</u></i>
RFP responsive Japanese Documents from additional sources	<i>By <u>January 31, 2012</u></i>

1 **III. PHASE II PROTECTIONS AFFORDED TOYOTA**

2 In order to produce documents pursuant to the accelerated schedule outlined in
3 Section II above, Toyota is significantly streamlining its processes for the collection,
4 review and production of documents. The Court acknowledged Toyota’s need for
5 heightened protections given these streamlined processes. See July 18, 2011
6 Hrg. Trans., at 37:24-39:2. Accordingly, to avoid prejudice to Toyota and to protect
7 Toyota’s confidential information and due process rights, Toyota’s production
8 pursuant to this Order will be afforded the additional protections outlined below.

9 **A. Confidentiality And Source Code**

10 Toyota’s accelerated review process requires a streamlined confidentiality
11 review process of each Japanese language document; therefore, Toyota may produce
12 all documents from Japanese language custodians with a designation of “Highly
13 Confidential” or, if a document is believed to contain source code, with a designation
14 of “Source Code” and the Parties will treat them as such under the terms of the
15 Protective Orders entered in this matter. Toyota will continue to review these
16 documents over time and will “re-designate” on a rolling basis those documents that
17 are non-confidential or “Confidential” only. Plaintiffs may also request that certain
18 documents be de-designated to a lower confidentiality status and bring those to the
19 attention of the Special Masters for resolution. It is agreed that members of the
20 Plaintiffs’ Lead Counsel Committee for Economic Loss Class Actions and members
21 of the Plaintiffs’ Liaison Committee for Personal Injury/Wrongful Death cases may
22 review these highly confidential documents that are part of this accelerated review
23 process. These documents are not to be shared with the Sharing Attorneys (as defined
24 in section III.C below), or any other liaisons or committees.

25 **B. 30 Day “Claw Back” Procedure In Protective Order**

26 Effective upon the entry of this Order, the First Amended Protective Order
27 (Dkt. No. 627) shall be amended to allow more time for both Parties to notify the
28 other side if they discover inadvertently produced privileged or non-responsive

1 material, increasing the period of time to do so from 10 days to 30 days.

2 **C. Personally Identifiable Information (“PII”)**

3 In addition to containing commercially sensitive information, some of the
4 documents to be produced pursuant to this Order may contain privileged or private,
5 personal information about third parties. Yet, under the First Amended Protective
6 Order, a number of different people are authorized to review documents designated as
7 “Highly Confidential,” including experts, all counsel in this Action and counsel of
8 record in other lawsuits against any of the Toyota entities in the United States
9 involving allegations substantially similar to the allegations in this Action (“Sharing
10 Attorneys”). Thus, simply treating the documents produced under this Order as
11 “Highly Confidential” will not, by itself, provide Toyota or third parties with
12 sufficient protection.

13 Therefore, documents produced under this Order and designated as “Highly
14 Confidential” will be made available only to lead counsel and to the Plaintiffs’
15 Economic Loss Lead Counsel Committee, and Plaintiffs’ Personal Injury / Wrongful
16 Death Liaison Committee who have been designated by the Court in this action
17 (“Plaintiffs’ Lead Counsel”). These documents are not to be shared with the Sharing
18 Attorneys, or any other liaisons or committees.

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IV. ORDER NO. 14

To the extent that any deadline or requirement herein conflicts with the provisions of Order No. 14 (Amended) (Docket No. 1511), this Order controls.

IT IS SO ORDERED.

Dated: August 02, 2011



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

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Dated: July 30, 2011

Respectfully submitted,

By: /s/ Steve W. Berman

STEVE W. BERMAN (WA SBN 12536)
Email: steve@hbsslw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 268-9320
Facsimile: (206) 623-0594

By: /s/ Marc M. Seltzer

MARC M. SELTZER (CA SBN 054534)
Email: mseltzer@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Telephone: (310) 789-3102
Facsimile: (310) 789-3006

By: /s/ Frank M. Pitre

FRANK M. PITRE (CA SBN 100077)
Email: fpitre@cpmlegal.com
COTCHETT, PITRE & MCCARTHY
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577

Co-Lead Plaintiffs' Counsel for Economic Loss Cases

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By: /s/ Elizabeth J. Cabraser

ELIZABETH J. CABRASER (CA SBN 083151)
Email: ecabraser@lchb.com
**LIEFF CABRASER HEIMANN
& BERNSTEIN, LLP**
275 Battery Street, Suite 3000
San Francisco, CA 94111
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

By: /s/ Mark P. Robison

MARK P. ROBINSON, JR. (CA SBN 54426)
Email: beachlawyer51@hotmail.com
ROBINSON, CALCAGNIE & ROBINSON INC.
620 Newport Center Drive, 7th Floor
Newport Beach, CA 92660
Telephone: (949) 720-1288
Facsimile: (949) 720-1292

***Co-Lead Plaintiffs' Counsel for Personal
Injury/Wrongful Death Cases***

By: /s/ Cari K. Dawson

CARI K. DAWSON (GA SBN 213490)
Email: cari.dawson@alston.com
ALSTON + BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
Telephone: (404) 881-7766
Facsimile: (404) 253-8567

By: /s/ Lisa Gilford

LISA GILFORD (CA SBN 171641)
Email: lisa.gilford@alston.com
ALSTON + BIRD LLP
333 South Hope Street, 16th Floor
Los Angeles, CA 90071
Telephone: (213) 576-1000
Facsimile: (213) 576-1100

Co-Lead Defense Counsel for Economic Loss Cases

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By: /s/ Vincent Galvin, Jr.

VINCENT GALVIN, JR. (CA SBN 104448)
E-mail: vincent.galvinjr@bowmanandbrooke.com
BOWMAN AND BROOKE
1741 Technology Drive, Suite 200
San Jose, CA 95110
Telephone: (408) 279-5393
Facsimile: (408) 279-5845

By: /s/ Joel Smith

JOEL SMITH (SC SBN 5266)
E-mail: joel.smith@bowmanandbrooke.com
BOWMAN AND BROOKE
1441 Main Street, Suite 1200
Columbia, SC 29201
Telephone: (803) 726-7420
Facsimile: (803) 726-7421

*Lead Defense Counsel for Personal Injury/Wrongful
Death Cases*