

GM and Chrysler Bankruptcies

The Status of Product Liability, Warranty and Lemon Law Claims for New GM and Chrysler

This page contains information and court documents related to the GM and Chrysler bankruptcies. It focuses on the treatment of warranty, lemon law, recall and product liability claims against the automakers. This information is subject to change based on new developments.

Chrysler

Warranty and Lemon Law Claims

Section 2.08(g) of the Master Transaction Agreement between Chrysler and Fiat provides that New Chrysler assumes liability for “all Liabilities pursuant to product warranties, product returns, and rebates sold by [Chrysler] prior to the Closing.”

Thus, New Chrysler stands behind the warranties of all Chrysler vehicles, regardless of whether they were manufactured by Old or New Chrysler. New Chrysler has also agreed that all Chrysler customers will be covered under state lemon laws, and that it will honor safety recalls of all Chrysler vehicles.

Product Liability Claims

Section 2.08(h) of the Master Transaction Agreement provides that New Chrysler assumes liability for “all Product Liability Claims arising from the sale after the Closing of Products or Inventory manufactured by [Old Chrysler] or their Subsidiaries in whole or in part prior to the Closing.”

New Chrysler initially disclaimed any liability for product liability claims involving vehicles manufactured and sold by Old Chrysler prior to June 10, 2009. In a letter sent to Congress on August 27, 2009, New Chrysler announced it would accept product liability claims on vehicles manufactured by Old Chrysler before June 10, 2009 and involved in accidents on or after that date.

New Chrysler has not, however, agreed to accept liability for product liability claims related to Old Chrysler vehicles involved in accidents prior to June 10, 2009. In addition, all cases that were pending against Old Chrysler at the time of the bankruptcy filing on April 30, 2009 remain the responsibility of Old Chrysler and will be handled in bankruptcy court.

General Motors

Warranty and Lemon Law Claims

Section 2.3(a)(vii) of the Amended and Restated Master Sale and Purchase Agreement between Old GM and New GM provides that New GM assumes “all Liabilities arising under express written warranties of [Old GM]” as well as “all Obligations under Lemon Laws.”

This language makes clear that New GM stands behind the warranties of all GM vehicles, whether manufactured by Old or New GM, and will also honor state lemon law claims. While it is unclear

whether New GM has explicitly agreed to honor recall notices related to Old GM vehicles, they would be foolish not to honor safety recalls.

Product Liability Claims

Section 2.3(a)(ix) of the Amended and Restated Master Sale and Purchase Agreement, as amended by the First Amendment thereto, provides that New GM assumes liability for product liability claims arising out of accidents or incidents occurring on or after the company emerges from bankruptcy (July 10, 2009).

In other words, New GM has assumed responsibility for product liability claims related to all GM vehicles, regardless of whether they were manufactured by Old or New GM, provided that the accident occurred on or after July 10, 2009. Plaintiffs with pending claims, or those who were injured prior to July 10, 2009, must seek redress from Old GM in the bankruptcy court proceeding.

Court Decisions

The Second Circuit authorized the § 363 sale to New Chrysler of Old Chrysler's assets free and clear of any existing tort liability (including asbestos claims), but declined to delineate the scope of the bankruptcy court's authority to extinguish future claims "until such time as we are presented with an actual claim for injury that is caused by Old Chrysler, that occurs after the Sale, and that is cognizable under state successor liability law." *In re Chrysler, LLC*, 576 F.3d 108, 126-27 (2d Cir. 2009).

In the case of GM, the S.D.N.Y. Bankruptcy Court was bound by the Second Circuit's decision in the Chrysler appeal, and permitted "GM's assets to pass to the purchaser free and clear of successor liability claims." *In re General Motors Corp.*, 407 B.R. 463, 505 (Bankr. S.D.N.Y. 2009).

Important Documents for the GM and Chrysler Bankruptcies

Chrysler

- Bankruptcy Petition
- Decision on Debtor's Motion to Authorize 363 Sale
- Order authorizing 363 Sale Order
- Master Transaction Agreement

GM

- Bankruptcy Petition
- Decision on Debtor's Motion to Authorize 363 Sale
- Order authorizing 363 Sale
- Amended and Restated Master Sale and Purchase Agreement
- First Amendment to Sale and Purchase Agreement

Additional documents are available at

- www.gmcourtdocs.com
- www.chryslerrestructuring.com