

## News & Insights

### Plaintiffs' Class Certification Motion in *Daigle et al. v. Ford Motor Co.* Denied as Dykema Successfully Represents Ford Motor Co.

August 6, 2012

**DETROIT**—Judge Michael J. Davis of the U.S. District Court of Minnesota issued a final order on Tuesday July 31 that denied the plaintiffs' request for class certification in *Daigle et al. v. Ford Motor Co.* (Case No. 09-cv-03214). John M. Thomas of law firm Dykema in Ann Arbor successfully represented Ford Motor Co. in this matter.

In denying certification, the court held that: 1) individual issues predominated with respect to Plaintiffs' warranty and unjust enrichment claims, 2) Ford's voluntary safety recall of 2004-05 Freestars and Montereys provided most of the putative class the relief it sought; and, therefore, 3) a class action was not a superior method to adjudicate the claims asserted.

Judge Davis also granted summary judgment on the individual warranty and unjust enrichment claims asserted by the three named Plaintiffs. "We are pleased that the court, based upon the evidence and legal arguments presented, denied class certification in this case," said Thomas, one of the lead attorneys and a partner at Dykema. "This decision underscores our key argument in this case that Plaintiffs' claims were meritless."

In November 2009, minivan owners James Genovese, Henri Caron and Edward Daigle brought a putative class action on behalf of owners and lessees of 2004 to 2006 Ford Freestar and Mercury Monterey vehicles, which were allegedly built in the same factory using the same design platform.

The plaintiffs claimed a design defect in the vehicles' torque converter, which acts as a bridge between the engine and the transmission, caused transmission failures in their vehicles. They asserted several tort and warranty claims, but Judge Davis dismissed many of these claims in 2010. In its October 2011 motion for summary judgment, Ford argued that the evidence showed that the remaining warranty and unjust enrichment claims were meritless.

Thomas defended the case with Janet Conigliaro, also with Dykema (formerly with LeClair Ryan). Among Thomas's other recent successes are denials of class certification in *Corder v. Ford Motor Company* in the Western District of Kentucky (July 25, 2012); *Edwards v. Ford Motor Company* in the Southern District of California (June 12, 2012); and *Johnson v. Harley-Davidson* in the Central District of California (May 23, 2012).

With more than 75 years of experience representing companies in the automotive industry, Dykema has one of the most extensive automotive legal practices in the United States. Dykema lawyers regularly represent automotive companies headquartered throughout the world. The attorneys counsel suppliers and OEMs in multimillion-dollar mergers and acquisitions, in a broad array of automobile product liability, commercial and supply chain management litigation, in class action litigation in the most challenging jurisdictions, and before the U.S. Department of Transportation and other federal and state departments and agencies. For more information on Dykema's Automotive Industry Group, please visit <http://www.dykema.com/services-industries-automotive-industry-group.html>.

#### Attorneys

John M. Thomas

#### Practice Areas

Class Action Defense

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(Cont.)

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Automotive Industry Group