

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

JAMES BLEDSOE, PAUL  
CHOUFFET, JAY MARTIN, and  
MARTIN RIVAS, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

Case No. 4:16-cv-14024

vs.

Hon. Terrence G. Berg

FCA US LLC, a Delaware corporation,  
and CUMMINS INC., an Indiana  
corporation,

Defendants.

**STIPULATED ORDER**  
**CONSOLIDATING CASES AND SETTING BRIEFING SCHEDULE**

The parties to the above-captioned action (“*Bledsoe*”) and the parties to *Perdue, et al. v. FCA US LLC, et al.*, Case No. 16-cv-14461 (“*Perdue*”), by and through their respective counsel, hereby stipulate and agree that the *Bledsoe* action and the *Perdue* action should be consolidated pursuant to Federal Rule of Civil Procedure 42(a) and Local Rule 42.1, stating as follows:

1. On November 14, 2016, the *Bledsoe* Plaintiffs filed a complaint (the “Bledsoe Complaint”) in this Court against Defendants FCA US LLC (“FCA”) and Cummins Inc. (“Cummins”).

2. On December 23, 2016, the *Perdue* Plaintiffs filed a substantially similar complaint (the “Perdue Complaint”) in this Court against FCA and Cummins.

3. Plaintiffs in *Perdue* identified *Bledsoe* as a companion case on their civil cover sheet.

4. On January 30, 2017, the Court entered an Order Regarding Reassignment of Companion Case in the *Perdue* matter. The *Perdue* case was reassigned to the docket of the Honorable Terrence G. Berg and Magistrate Judge R. Steven Whalen, where the *Bledsoe* case is currently pending.

5. The parties to the *Bledsoe* action and the *Perdue* action have conferred and determined that it is in the best interest of the parties and judicial economy to have the actions consolidated for all purposes.

6. Under Federal Rule of Civil Procedure 42(a), “[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.”

7. In deciding whether to consolidate, a court must balance the risk of prejudice and confusion versus the risk of inconsistent adjudications of common factual and legal issues, the burden on the parties and witnesses, available judicial resources posed by multiple lawsuits, length of time required to conclude multiple

suits, and relative expense. *Cantrel v. GAF Corp.*, 999 F.2d 1007, 1010-11 (6th Cir. 1993); *see also In re Delphi ERISA Litig.*, 230 F.R.D. 496, 498 (E.D. Mich. 2005) (granting consolidation of separate actions where they alleged the same or similar breaches of fiduciary duty in connection with the same investment plan and where no parties opposed consolidation).

8. The decision to consolidate cases is within the sound discretion of the trial court. *Cantrel*, 999 F.2d at 1011.

9. The *Bledsoe* action and the *Perdue* action involve numerous common questions of law and fact:

- a. The Plaintiffs in both actions purport to represent a class of individuals who are nationwide owners of:
  - i. 2007-2010 Ram 2500 with Cummins diesel engine;
  - ii. 2011-2012 Ram 2500 with Cummins diesel engine (non-SCR);
  - iii. 2007-2010 Ram 3500 with Cummins diesel engine; and
  - iv. 2011-2012 Ram 3500 with Cummins diesel engine (non-SCR). (*Bledsoe* Compl. ¶ 126; *Perdue* Compl. ¶ 6.)<sup>1</sup>

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<sup>1</sup> In order to demonstrate the common questions of law and fact presented in *Bledsoe* and *Perdue*, the parties set forth allegations of the respective Complaints. In doing so, Defendants are in no way expressing agreement with these allegations and, with respect to both actions, dispute that Plaintiffs' allegations have any merit.

- b. The Plaintiffs in both actions allege that these vehicles have emissions that do not comply with U.S. environmental regulations. (Bledsoe Compl. ¶ 10; Perdue Compl. ¶ 4.)
- c. The Plaintiffs in both actions allege that FCA and Cummins failed to disclose, willfully concealed, and/or deliberately misrepresented the truth about emissions noncompliance. (Bledsoe Compl. ¶¶ 12-16; Perdue Compl. ¶ 8.)
- d. The Plaintiffs in both actions allege that FCA made false representations in its emissions certification applications that the vehicles met emissions standards, and that FCA and Cummins jointly promoted the vehicles as meeting certain emissions standards. (Bledsoe Compl. ¶ 11-12, 18; Perdue Compl. ¶¶ 3-4, 59-61.)
- e. The Plaintiffs in both actions allege that they would not have purchased the vehicles had they known the alleged truth about emissions, or would have paid substantially less. (*See, e.g.*, Bledsoe Compl. ¶ 25; Perdue Compl. ¶ 15.)
- f. The Plaintiffs in both actions allege claims against the Defendants that include RICO claims, Magnuson Moss warranty claims, breach of contract, fraudulent concealment, and violation of consumer fraud/deceptive trade practice and similar state statutes. (Bledsoe Compl. ¶¶ 136-228; Perdue Compl. ¶ 7.)
- g. FCA and Cummins anticipate that they will each likely present substantially similar defenses to both actions.

10. Many of the same attorneys that represent the *Bledsoe* plaintiffs also represent the *Perdue* plaintiffs. The same counsel represents Cummins in both actions. The same counsel represents FCA in both actions.

11. The parties respectfully request that the *Perdue* action be consolidated with the first-filed *Bledsoe* action because the actions involve common questions

of law and fact. The risk of inconsistent adjudications of common factual and legal issues and the burden on the parties and witnesses far outweigh any risk of prejudice or confusion.

12. The parties' joint request for consolidation satisfies the requirements of Federal Rule of Civil Procedure 42(a).

13. The parties agree that Defendants shall have no obligation to answer, move or otherwise respond to the existing complaints in *Bledsoe* or *Perdue*, but will instead respond to Plaintiffs' Consolidated Complaint as set forth below.

14. The parties agree, subject to the approval of the Court, that, upon consolidation, the following deadlines should apply:

<b>Filing</b>	<b>Deadline</b>
Plaintiffs' Consolidated Complaint	10 days after entry of Order to Consolidate
Defendants' Responsive Pleadings or Motions	30 days after filing of Consolidated Complaint
Plaintiffs' Response to Defendants' Filings	49 days after filing of Responsive Pleadings or Motions
Defendants' Replies in Support of Responsive Pleadings or Motions	21 days after filing of Response to Defendants' Filings

15. Pursuant to Local Rule 42.1 of the Local Rules of the United States District Court for the Eastern District of Michigan, this Stipulated Order is being submitted in the earlier *Bledsoe* action and a Notice of Stipulated Order is being submitted in the later *Perdue* action. E.D. Mich. LR 42.1.

IT IS HEREBY ORDERED that the *Bledsoe* action and the *Perdue* action are consolidated.

IT IS HEREBY FURTHER ORDERED that Defendants in the *Bledsoe* action and the *Perdue* action shall have no obligation to answer, move or otherwise respond to the existing Bledsoe Complaint or the Perdue Complaint, but will instead respond to Plaintiffs' Consolidated Complaint as set forth below.

IT IS HEREBY FURTHER ORDERED that the following deadlines will apply:

<b>Filing</b>	<b>Deadline</b>
Plaintiffs' Consolidated Complaint	10 days after entry of Order to Consolidate
Defendants' Responsive Pleadings	30 days after filing of Consolidated Complaint
Plaintiffs' Response to Defendants' Filings	49 days after filing of Responsive Pleadings
Defendants' Replies in Support of Responsive Pleadings	21 days after filing of Response to Defendants' Filings

IT IS SO ORDERED.

s/Terrence G. Berg  
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 TERRENCE G. BERG  
 UNITED STATES DISTRICT JUDGE

Dated: February 9, 2017  
 Flint, Michigan

**STIPULATED BY:**

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Dated: February 3, 2017