

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND  
BUSINESS COURT**

**FCA US, LLC,  
Plaintiff,**

v.

**Case No. 15-146773-CK  
Hon. James M. Alexander**

**LEAR CORPORATION,  
Defendant/Third-Party Plaintiff,**

v.

**DELPHI CONNECTION SYSTEMS US, INC  
f/k/a FCI AUTOMOTIVE USA, INC,  
DPH HOLDINGS CORP,  
and DELPHI AUTOMOTIVE, LLP,  
Third-Party Defendants.**

---

**OPINION AND ORDER RE: SUMMARY DISPOSITION**

This matter is before the Court on Defendant/Third-Party Plaintiff Lear Corporation's and Third-Party Defendant Delphi Connection Systems' motions for summary disposition. The Court dispenses with oral argument pursuant to MCR 2.119(E)(3).

As it relates to the movants, this is a breach of warranty and indemnity case that arises from a FCA recall of some 119,000 vehicles. The recall was the result of the illumination of an airbag indicator light on the dashboard of certain 2011 model year vehicles. After an investigation, FCA traced the light's cause to heightened resistance due to an unstable condition at the interface between two wires used in a harness in the seat assembly.

Lear was the supplier of said seat assemblies, who sourced the female terminal of the harness in the affected area from Delphi. These two parties now dispute the cause of the issue. Delphi claims that Lear's seat design (including connector placement) and loose wire crimps caused the issue. Lear, on the other hand, claims that Delphi's use of too much nickel plating in the crimp zone caused the issue.

Perhaps confused about the standard, both parties now move for summary disposition under MCR 2.116(C)(10) – which presumes that there are no material facts in dispute.<sup>1</sup> But both parties' motions rest solely on a resolution of the disputed cause of this airbag light issue.

And in support of their respective positions, **both** sides offer **substantial** evidence pointing at the other as the cause of the heightened resistance in the connector. Said evidence comes in many forms (and includes both direct and circumstantial). For example, **both** parties cite to: deposition testimony; internal emails; emails between the parties; design schematics; design revisions; admissions; affidavits; graphs illustrating the timing and number of warranty claims as compared to alleged design defects and modifications; change requests; purchase orders; laboratory test requests; internal testing; third-party test reports; expert reports; FCA design requirements; lab test reports; warranty fix solutions; failures to disclose internal tests and findings; comparisons to other vehicles; and expert guidelines on metal use in electrical connections.

And, just for good measure, **both** parties also challenge the credibility and relevance of the other's offered evidence and expert findings. In other words, both parties specifically make

---

<sup>1</sup> A motion under MCR 2.116(C)(10) tests the factual support for Plaintiff's claims. *Maiden v Rozwood*, 461 Mich 109, 119-120; 597 NW2d 817 (1999). The moving party must specifically identify the issues that he believes present no genuine issue of material fact. *Id.* at 120. The opposing party may not rest on mere allegations or denials in his pleadings, but must, by affidavits or as otherwise provided in the rule, set forth specific facts showing a genuine issue for trial. *Id.* at 120-121. Where the evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. *Id.* at 120.

credibility an issue. But it is well settled that credibility is an issue that must be submitted to the trier of fact. *White v Taylor Distributing Company, Inc*, 275 Mich App 615; 739 NW2d 132 (2007). The *White* Court reasoned that, “courts may not resolve factual disputes or determine credibility in ruling on a summary disposition motion” *White*, 275 Mich App at 625.

This Court cannot possibly grant either side’s summary request without weighing a **substantial** amount of evidence **against** the nonmoving party – contrary to the (C)(10) standard. This is so because **all** material facts are disputed and **both** sides offer substantial evidence in support of their summary requests.

For the above reasons, both parties’ summary motions are DENIED.

Simply, both motions, which wholly ignore the (C)(10) standard, should never have been filed.

**IT IS SO ORDERED.**

January 31, 2017  
Date

/s/ James M. Alexander  
Hon. James M. Alexander, Circuit Court Judge