

Automotive News

Logjam threatens arbitration deadline

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The group organizing dealer arbitrations is starting to worry about how to meet the summer deadlines set by Congress in light of massive scheduling bottlenecks.

Some lawyers or automaker executives may need to appear at dozens, or even hundreds, of hearings.

The American Arbitration Association is coaxing arbitrators to try to set hearings before the congressionally mandated deadline of June 14.

More than 100 of the 608 hearings scheduled by arbitrators so far have been given a one-month extension -- to July 14 -- permitted in individual cases by the law passed by Congress and signed by President Barack Obama in December.

"Arbitrators are telling me everything's copacetic," the association's senior vice president India Johnson said last week. "But obviously, from our perspective, when Congress sees how many hearings are set past their June 14 deadline, it may feel to them like we didn't meet their deadline."

The association also is concerned about the availability of senior General Motors Co. and Chrysler Group executives and plaintiff lawyers.

"There's no way to put a person in 10 places at the same time," she said.

The association is making video and teleconferencing technology available for all cases to squeeze scarce witnesses and lawyers into multiple hearings.

"Technology like this is used all the time in court in mass and class litigation if there are similar fact situations in the cases," she said.

Johnson added, however, that ultimately every case would be scheduled by the ultimate July 14 deadline.

Dealer lawyers aren't so sure.

"There appears to me to be an actual scheduling crisis," said Rob Byerts, a Tallahassee, Fla., lawyer. "If no hearing is held, the loser will be the dealer who does not get reinstated."

Oren Tasini, a North Palm Beach, Fla., lawyer, said it still is possible to schedule all the remaining hearings.

"I suppose you could just have the dealer and the manufacturer show up, with no exchange of documents, no briefs before the hearing, and each side tells its story," he said.

The risk is that dealers' due process could be eroded in such shortened proceedings, Tasini said.

In January, more than half the 2,789 GM and Chrysler dealerships targeted for elimination filed claims of their intent to seek reinstatement through arbitration.

Those still in arbitration are down to fewer than 1,000 because of failure to pay required fees or dealership requests to drop arbitration and instead accept company-offered reinstatements or settlements, Johnson said last week.

Under the new law, arbitrators can decide only whether to reinstate a showroom. Dealerships interested in cash compensation or other arrangements can pursue settlements.

Of the 608 hearings for GM and Chrysler dealers that have been scheduled, 498 are scheduled to take place before June 14.

That leaves 110 that have been granted extensions to July 14. Another 81 hearings await scheduling.

And the wild card: There are 261 hearings held in abeyance because they haven't yet been fully paid for by the dealer or because the dealer is deciding whether to settle his case or accept company-offered reinstatement instead.

"This number of cases is going to wear [the lawyers] down," Johnson said. "Picture them in mid- or late May. The technology will be more appealing later."

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