

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: POOL PRODUCTS DISTRIBUTION
MARKET ANTITRUST LITIGATION**

**THIS DOCUMENT RELATES TO: ALL
ACTIONS**

* **MDL NO. 2328**
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* **SECTION R/2**
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* **Judge Vance**
* **Mag. Judge Wilkinson**
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**PLAINTIFFS' EIGHTH STATUS REPORT ON FACT DISCOVERY PURSUANT TO
PRETRIAL ORDER NO. 17**

Pursuant to the Court's Pretrial Order Number 17, entered on March 7, 2013, direct purchaser plaintiffs ("DPPs") and indirect purchaser plaintiffs ("IPPs") hereby submit their eighth status report on the status of fact discovery. The DPPs' report on the status of discovery is included as Section I, the IPPs' report is included as Section II, and a report on the status of third-party discovery is included as Section III.

I. Status Report by the DPPs

a. Discovery From Defendants to DPPs

i. Transaction Data

On June 3, 2013, DPPs served a third set of questions on PoolCorp concerning PoolCorp's transaction data. On June 20, 2013, the Court ordered PoolCorp to produce transaction data documents in response to these questions "as promptly as possible." Pretrial Order No. 18 at ¶ 17. On July 11, 2013, PoolCorp served its responses, and additional questions about these responses were served by DPPs on August 1, 2013.

On June 28, 2013, DPPs served a third set of questions on Zodiac concerning Zodiac's transaction data. On July 11 and August 1, 2013, Zodiac advised DPPs that answers would be provided. As of the date of this report, Zodiac's responses are still outstanding.

ii. Document Production

On June 24, 2013, PoolCorp represented that its production of documents has been substantially completed. On July 29, 2013, Pentair served what it represented was its final production, barring unexpected identification of additional documents; however, an additional small production was received on July 31, 2013. DPPs have received no further productions from Hayward and Zodiac since June 23, 2013 and June 25, 2013, respectively, and no indications that additional productions should be expected from these defendants.

iii. Privilege Logs

On July 24, 2013, all defendants produced privilege logs in accordance with Pretrial Order No. 18. Either simultaneously or in the following week, each defendant also produced documents that had been previously been withheld as privileged and were now being produced in their entirety or with redactions.

iv. Depositions

The depositions of all defendant witnesses taken by DPPs to date are listed in the table in Attachment A.

b. Discovery From DPPs to Defendants

i. Document Production

DPPs have completed their document production.

ii. Privilege Log

In compliance with Pretrial Order No. 18, DPPs produced a privilege log to Defendants on July 24, 2013.

iii. Depositions

Defendants have taken the depositions of all seven named direct purchaser plaintiffs.

II. Status Report by the IPPs

The IPPs are participating in scheduled depositions of Direct Purchaser Plaintiffs and third-party witnesses. The deposition of the proposed Florida class representative, Peter Mougey, will occur on August 29th in Pensacola, Florida. Upon completion of his deposition, all four class representatives will have been deposed by Defendants. IPPs sent out 17 third-party subpoenas asking for financial records to assist in establishing pass-on evidence. Cooperation by third parties has largely been very good but IPPs are still negotiating and talking with others. This discovery is expected to be complete in September due to the fact that the busy season is now occurring with swimming pool product retailers and builders.

III. Status Report on Third-Party Discovery

To date, eight non-party witnesses have been deposed pursuant to the subpoenas served by the Manufacturer Defendants, and the parties are currently negotiating dates for additional witnesses. In addition, Direct Purchaser Plaintiffs are continuing to pursue document productions in connection with their previously served subpoenas *duces tecum*.

Dated: August 2, 2013

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Liaison for Indirect Purchaser Class Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Plaintiffs' Eighth Status Report on Fact Discovery Pursuant to Pretrial Order No. 17 has been served on Direct Purchaser Plaintiffs' Co-Liaison Counsel, Russ Herman and Camilo Salas, III, Indirect Purchaser Plaintiffs' Liaison Counsel, Thomas H. Brill, Defendants' Liaison Counsel, William Gaudet, and Manufacturer Defendants' Liaison Counsel, Wayne Lee, by e-mail and upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pretrial Order No. 8, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2328, on this 2nd day of August, 2013.

/s/ Leonard A. Davis
LEONARD A. DAVIS

Attachment A

Depositions of Defendant Witnesses Taken by DPPs			
<u>Date</u>	<u>Deponent Name</u>	<u>Company Affiliation</u>	<u>Deposition Location</u>
March 19, 2013	Jon Damaska	Zodiac	Chicago, IL
March 20, 2013	Scott Bushey	Zodiac	Chicago, IL
April 3, 2013	Pentair 30(b)(6) on Code of Conduct	Pentair	Raleigh, NC
April 4, 2013	Pentair 30(b)(6) on Corporate Structure & HR	Pentair	Raleigh, NC
April 16, 2013	Enrique Gomez	Zodiac	Miami, FL
April 17, 2013	David Albee	Hayward	Newark, NJ
April 18, 2013	Doug Bragg	Hayward	Newark, NJ
April 18, 2013	Pentair 30(b)(6) on IT	Pentair	Raleigh, NC
April 19, 2013	Stephen Markowitz	Zodiac	Philadelphia, PA
April 23, 2013	Craig Goodson	Zodiac	Atlanta, GA
May 2, 2013	Pool Corp. 30(b)(6) on Pricing & Acquisitions	PoolCorp	New Orleans, LA
May 3, 2013	Melanie Housey	PoolCorp	New Orleans, LA
May 7, 2013	Robert Nichols	Hayward	Newark, NJ
May 8, 2013	Bill Cook	PoolCorp	New Orleans, LA
May 8, 2013	Paul Walter	Pentair	Las Vegas, NV
May 9, 2013	Darren Coleman	Pentair	Las Vegas, NV
May 10, 2013	Fred Manno	Hayward	Newark, NJ
May 15, 2013	John Oster	Pentair	Indianapolis, IN
May 15, 2013	Paul Snopek	Pentair	Indianapolis, IN
May 16, 2013	Scott Cummings	Pentair	Indianapolis, IN
May 22, 2013	John Hulme	PoolCorp	Boston, MA
May 23, 2013	Dan Porter	Pentair	Houston, TX
May 23, 2013	Jon Cannon	Pentair	Houston, TX
May 29, 2013	Greg Kahle	Pentair	Atlanta, GA
May 30, 2013	Mike Echols	Pentair	Atlanta, GA
June 4, 2013	William Witmarsh	Hayward	Newark, NJ
June 19, 2013	Thomas Canaday	PoolCorp	New Orleans, LA
June 25, 2013	Dale O'Dell	PoolCorp	New Orleans, LA

Attachment A

June 26, 2013	Tom Dissinger	Hayward	Newark, NJ
June 26, 2013	Rick Postoll	PoolCorp	New Orleans, LA
July 9, 2013	David Nibler	Zodiac	San Diego, CA
July 10, 2013	Barry Greenwald	Zodiac	San Diego, CA
July 11, 2013	Anthony Prudhomme	Zodiac	Los Angeles, CA