

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

IN RE: POOL PRODUCTS)
DISTRIBUTION MARKET ANTITRUST)
LITIGATION)
_____)

**MDL No. 2328
SECTION: R(2)**

**Judge Vance
Mag. Judge Wilkinson**

This Document Relates to: All Cases

**DEFENDANT ZODIAC POOL SYSTEMS, INC.’S
FIRST BIWEEKLY REPORT ON THE STATUS OF FACT DISCOVERY**

Pursuant to the Court’s December 7, 2012 Pretrial Order No. 16, ECF No. 183, Defendant Zodiac Pool Systems, Inc. (“Zodiac”) provides the following report on the status of fact discovery in this case.

By letter dated December 17, 2012, Zodiac’s counsel identified to liaison counsel for Direct Purchaser and Indirect Purchaser Plaintiffs (collectively, “Plaintiffs”) 12 custodians whose documents Zodiac proposed to search for production pursuant to Plaintiffs’ discovery requests in this case. On December 26, 2012, Plaintiffs responded with an extensive list of 70 additional Zodiac custodians that Plaintiffs believed should be searched.

Zodiac’s counsel responded by letter dated December 28, 2012 and offered to search an additional 6 custodians, but objected to the remainder of Plaintiffs’ proposed list of additional custodians as irrelevant and overbroad, noting that the vast majority of Plaintiffs’ proposed additional custodians were either executive assistants or low-level field sales representatives, many of whom had left the company years ago, and whose duties and respective scopes of authority have no clear connection to Plaintiffs’ allegations in this case. Zodiac’s counsel also explained the substantial burden of collecting from such a large number of geographically disparate custodians, many of whom work out of home offices.

The parties met and conferred on this issue telephonically on January 4, 2013, and again on January 16, 2013, and have also corresponded extensively on the issue via email. In the course of these interactions, Zodiac's counsel provided Plaintiffs' counsel with detailed information about the duties and departure dates of many of Plaintiffs' proposed additional custodians, as well as the availability of emails and documents from certain of Plaintiffs' proposed additional custodians. Zodiac's counsel also agreed to collect relevant documents contained in any remaining network folders that belonged to 4 former employees.

On January 28, 2013, Plaintiffs' counsel provided Zodiac's counsel with a revised list of 8 additional custodians whose documents they would like Zodiac to search. The parties are continuing to negotiate in good faith, and Zodiac's counsel anticipates reaching final agreement with Plaintiffs' counsel on this issue in the near future.

Dated: January 29, 2013

Respectfully submitted,

/s/ J. Brent Justus

Howard Feller

J. Brent Justus

MCGUIREWOODS LLP

One James Center

901 East Cary Street

Richmond, VA 23219-4030

Phone: (804) 775-1018

Fax: (804) 698-2026

hfeller@mcguirewoods.com

bjustus@mcguirewoods.com

/s/ Neil C. Abramson

Neil C. Abramson (LA Bar No. 21436)

LISKOW & LEWIS

701 Poydras Street, Suite 5000

New Orleans, Louisiana 70139

Tel: (504) 581-7979

Fax: (504) 556-4108

Email: nabramson@liskow.com

Counsel for Zodiac Pool Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2013, a copy of the foregoing Defendant Zodiac Pool Systems, Inc.'s First Biweekly Report on the Status of Fact Discovery was served upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pretrial Order No. 8 in this case.

/s/ Samantha Griffin