

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

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

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

**Chief Judge Vance
Mag. Judge Wilkinson**

This Document Relates to: All Cases

DEFENDANTS’ ELEVENTH REPORT ON THE STATUS OF FACT DISCOVERY

Pursuant to the Court’s March 7, 2013 Pretrial Order No. 17, ECF No. 200, Defendants Hayward Industries, Inc. (“Hayward”), Pentair Water Pool and Spa, Inc. (“Pentair”), Zodiac Pool Systems, Inc. (“Zodiac” and, collectively with Hayward and Pentair, the “Manufacturer Defendants”), Pool Corporation (“Pool Corp.”), SCP Distributors LLC (“SCP”), and Superior Pool Products LLC (“SPP” and, collectively with Pool Corp. and SCP, the “Pool Defendants”), by counsel, submit the following report on the status of fact discovery.

I. POOL DEFENDANTS’ REPORT

A. Document Production

Pool Defendants finished their document production and have nothing new to report.

B. Privilege Assertions and Logs

On November 4, 2013, the Pool Defendants received correspondence from the Direct Purchaser Plaintiffs identifying issues related to their privilege assertions and logs. As directed

by Pretrial Order No. 20, counsel for the Pool Defendants will meet and confer with counsel for the Direct Purchaser Plaintiffs in an effort to resolve these issues.

II. MANUFACTURER DEFENDANTS' REPORT

A. Document Production

Pentair, Hayward, and Zodiac all have completed their respective document productions, including production of their respective privilege logs.

B. Privilege Assertions and Logs

Shortly before the filing of this report, each of the Manufacturer Defendants received correspondence from the Direct Purchaser Plaintiffs concerning privilege assertions and logs in accordance with Pre-trial Order 20. After review of the correspondence, the Manufacturer Defendants intend to meet and confer with the Direct Purchaser Plaintiffs before the November 21, 2013 deadline.

III. DEFENDANTS' JOINT REPORT

A. Depositions

Following the status hearing on March 6, 2013, the parties began taking depositions, which, to date, have included the following:

Date	Deponent	Affiliation
3/8/2013	SPS Services, Ltd.	Direct Purchaser Plaintiff
3/15/2013	Aqua Clear Pools & Decks	Direct Purchaser Plaintiff
3/19/2013	John Damaska	Zodiac
3/20/2013	Scott Bushey	Zodiac
3/21/2013	Pro Pools Services	Direct Purchaser Plaintiff
3/22/2013	Jean Bove	Indirect Purchaser Plaintiff
3/28/2013	Thatcher Pools	Direct Purchaser Plaintiff
4/1/2013	James Hilton, Sr.	Third Party
4/3/2013	30(b)(6) - Code of Conduct	Pentair
4/4/2013	30(b)(6) - Corporate Structure & HR	Pentair
4/4/2013	Oasis Pool Services	Direct Purchaser Plaintiff

Date	Deponent	Affiliation
4/8/2013	David Coulter	Third Party
4/9/2013	Bill Haas	Third Party
4/15/2013	Eric Watters	Third Party
4/16/2013	Enrique Gomez	Zodiac
4/17/2013	David Albee	Hayward
4/18/2013	Doug Bragg	Hayward
4/18/2013	30(b)(6) – IT	Pentair
4/19/2013	Stephen Markowitz	Zodiac
4/19/2013	John Salvo	Third Party
4/23/2013	Craig Goodson	Zodiac
4/29/2013	Robert Snodgrass	Third Party
5/2/2013	30(b)(6) - Pricing and Acquisitions	Pool Corp.
5/3/2013	Melanie Housey	Pool Corp.
5/7/2013	Robert Nichols	Hayward
5/8/2013	Paul Walter	Pentair
5/8/2013	Bill Cook	Pool Corp.
5/9/2013	Darren Coleman	Pentair
5/10/2013	Fred Manno	Hayward
5/15/2013	John Oster	Pentair
5/15/2013	Paul Snopek	Pentair
5/16/2013	Scott Cummings	Pentair
5/22/2013	John Hulme	Pool Corp.
5/23/2013	Don Porter	Pentair
5/23/2013	Jon Cannon	Pentair
5/24/2013	Kevin Kistler	Indirect Purchaser Plaintiff
5/29/2013	Greg Kahle	Pentair
5/30/2013	Mike Echols	Pentair
6/4/2013	William Whitmarsh	Hayward
6/11/2013	Donna Williams	Pool Corp.
6/19/2013	Tom Canaday	Pool Corp.
6/25/2013	Dale O'Dell	Pool Corp.
6/26/2013	Rick Postoll	Pool Corp.
6/26/2013	Tom Dissinger	Hayward
7/9/2013	David Nibler	Zodiac
7/10/2013	Barry Greenwald	Zodiac
7/11/2013	Anthony Prudhomme	Zodiac
7/12/2013	Liquid Art	Direct Purchaser Plaintiff
7/16/2013	Douglas Learn	Third Party

Date	Deponent	Affiliation
7/18/2013	A Plus Pools	Direct Purchaser Plaintiff
7/25/2013	Greg Howard/Carecraft	Third Party
8/6/2013	Joseph (“Jody”) Smith	Zodiac
8/7/2013	Bill Knox	Third Party
8/20/2013	Bill Shuherk	Third Party
8/26/2013	Thomas Epple	Third Party
8/27/2013	David Dent	Third Party
8/27/2013	Tim Saxer	Third Party
8/29/2013	Peter Mougey	Indirect Purchaser Plaintiff
9/18/2013	John Gwaltney	Third Party

The parties continue to work to schedule the remaining depositions identified in the Defendants’ Identification of Prospective Party and Non-Party Deponents [Rec. Doc. 325] and Direct Purchaser Plaintiffs’ Submission Regarding Deponent Names Pursuant to Pre-Trial Order No. 18 [Rec. Doc. 326].

B. Status Reports

Given the completion of document productions and exchanges of privilege logs by the parties, Defendants again request that the Court discontinue monthly reporting and respectfully

suggest that the parties report to the Court in advance of any scheduled status conference the progress of the parties and any issues that they would like to see the Court address.

Dated: November 4, 2013

/s/ Wayne J. Lee

Wayne J. Lee (LA Bar No. 7916)
STONE PIGMAN WALTHER WITTMAN L.L.C.
546 Carondelet Street
New Orleans, Louisiana 70130
Tel: (504) 581-3200
Fax: (504) 581-3361
Email: wlee@stonepigman.com

/s/ Michael J. Lockerby

Michael J. Lockerby
Melinda F. Levitt
FOLEY & LARDNER LLP
Washington Harbour
3000 K Street, N.W., Suite 600
Washington, D.C. 20007-5143
Tel: (202) 672-5300
Fax: (202) 672-5399
Email: mlockerby@foley.com
Email: mlevitt@foley.com

Counsel for Pentair Water Pool and Spa, Inc.

/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

Counsel for Zodiac Pool Systems, Inc.

/s/ Richard Hernandez

Richard Hernandez
Thomas J. Goodwin
Matthew Wapner
MCCARTER & ENGLISH, LLP
100 Mulberry Street
Four Gateway Center
Newark, New Jersey 07102
Telephone: 973-622-4444
Facsimile: 973-624-7070
tgoodwin@mccarter.com
rhernandez@mccarter.com
mwapner@mccarter.com

/s/ Thomas M. Flanagan

Thomas M. Flanagan (LA Bar No. 19569)
Sean P. Brady (LA Bar No. 30410)
FLANAGAN PARTNERS LLP
201 St. Charles Avenue, Suite 2405
New Orleans, Louisiana 70170
Telephone: 504-569-0235
Facsimile: 504-592-0251
tflanagan@flanagantpartners.com
sbrady@flanagantpartners.com

Counsel for Hayward Industries, Inc.

/s/ Deana L. Cairo

David H. Bamberger
Deana L. Cairo
DLA Piper LLP (US)
500 8th Street, NW
Washington, DC 20004
Phone: (202) 799-4000

Counsel for the Pool Corporation Defendants

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2013, a copy of the foregoing Defendants' Tenth 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 P. Griffin