

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MDL No. 2328

IN RE: POOL PRODUCTS
DISTRIBUTION MARKET ANTITRUST
LITIGATION

SECTION: R(2)

JUDGE VANCE
MAG. JUDGE
WILKINSON

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER NO. 29

The Court held a status conference on August 14, 2014. After hearing from counsel for the parties, the Court issues the following Order:

1. All upcoming briefing on class certification, summary judgment, and *Daubert* motions may be filed under seal, without the need for document-specific motions to seal. For each document filed under seal, the parties are to file into the record a public version with confidential information redacted within 14 days of filing the sealed materials.
2. For reasons that the Court will address in a separate Order, the Court will permit Direct-Purchaser Plaintiffs (DPPs) to submit the supplemental report of DPPs' expert, Dr. Rausser. The following deadlines and requirements apply:
 - a. Defendants will have 60 days from the day of this Pretrial Order for their experts to evaluate Dr. Rausser's supplemental report and produce a written critique.


- b. The parties shall schedule one additional day of deposition for Dr. Rausser, to take place during the two-week time period immediately following the close of the 60 days provided to defendants for preparation of their reply reports.
 - c. The parties shall meet and confer and by Friday, August 22, 2014, shall provide the Court with the date for Dr. Rausser's deposition, as well as with an extension of the briefing deadlines for class certification, summary judgment, and *Daubert* motions to reflect the interruption necessitated by the supplemental report and redeposition of Dr. Rausser.
 - d. On Friday, August 22, 2014, defendants will also provide the Court with a good faith estimate of their anticipated attorneys' fees and expert expenses associated with the new expert analyses and redeposition of Dr. Rausser. Costs shall be limited to those associated with defendants' response to Dr. Rausser's supplemental report and Dr. Rausser's redeposition.
 - e. Defendants' new analyses shall be strictly limited in scope to addressing the contents and conclusions of Dr. Rausser's supplemental report.
3. By Friday, August 29, 2014, DPPs will provide the following in support of their Motion for Preliminary Approval of Settlement and Class Certification:

- a. A summary report from their expert, addressing the issue of plaintiffs' ability to prove impact using a common methodology and on a class-wide basis;
 - b. A copy of the Hayward side letter to be filed into the record, or a statement explaining why the letter should not be filed into the record;
 - c. Their Short Notice for the Court's review and approval; and
 - d. Their Long Notice, revised to include the following:
 - i. A statement that the combined total of attorney's fees and/or expenses to be sought from the Hayward Settlement shall not exceed one-third of the settlement fund;
 - ii. Language explaining that any third party claims processing services are not necessary and that communications from any such service are not authorized by the Court; and
 - iii. Clarified language that refers to "Hayward" and the "Hayward Settlement" throughout as opposed to "the Settling Defendant" and "the Settlement."
4. By Friday, August 22, 2014, Indirect-Purchaser Plaintiffs (IPPs) and Hayward will provide the following:
- a. Their expert's report, or a summary from their expert, addressing the issue of plaintiffs' ability to prove impact, including pass through, using a common methodology and on a class-wide basis;

- b. Their Notice forms, revised to include the following:
 - i. A statement that the combined total of attorney's fees and/or expenses to be sought from the Hayward Settlement shall not exceed one-third of the settlement fund;
 - ii. A summary of the general contours of the Apportionment Plan;
 - iii. Language explaining that any third-party claims-processing services are not necessary and that communications from any such service are not authorized by the Court; and
- c. Their Claims form, revised to reflect the modifications suggested by the Court during the hearing regarding the information requested of potential claimants;
- d. Their revised Motion in Support of Preliminary Approval of Settlement and Motion in Support of Class Certification, to include the following:
 - i. Counsel's commitment to a one-third cap on fees and expenses;
 - ii. An explanation of the qualifications of all proposed class counsel, with supporting documentation;
 - iii. The estimated percentage of potential class members the proposed notice plan will reach, supported by a statement from the proposed Claims Administrator, Angeion;

- iv. An explanation of the general contours of the Apportionment Plan, as discussed on the record during the hearing.
5. The parties shall proceed with the October mediation session with Judge Phillips as scheduled.
6. The Court will hold the next status conference on November 6, 2014, at 10:00 a.m. Lead counsel and liaison counsel are to meet in Chambers at 9:00 a.m. The parties shall submit to the Court on October 30, 2014 a report identifying all issues the parties wish to discuss at the status conference and their position concerning those issues.

New Orleans, Louisiana, this 14th day of August, 2014.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE