

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

In re: POOL PRODUCTS DISTRIBUTION	*	MDL Docket No. 2328
MARKET ANTITRUST LITIGATION	*	
	*	SECTION R(2)
	*	
	*	JUDGE VANCE
	*	
This document relates to All Cases	*	MAG. JUDGE WILKINSON
	*	
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**DEFENDANTS' FOURTH BIWEEKLY REPORT  
ON THE STATUS OF FACT DISCOVERY**

Pursuant to the Court’s March 7, 2013 Pretrial Order No. 17, the Pool Corporation Defendants (“Pool Defendants”), and the Manufacturer Defendants, Hayward Industries, Inc., Pentair Water Pool and Spa, Inc., and Zodiac Pool Systems, Inc. submit the following report on the status of fact discovery.

**I. POOL DEFENDANTS’ REPORT**

**A. Search Terms**

The Pool Defendants and Plaintiffs have reached agreement in principle on the search terms to be employed by both Pool Defendants and DPPs.

**B. Data and Document Review and Production**

The Pool Defendants produced their supplemental transaction data and answered the initial round of questions from the DPPs on March 12, 2013. On the evening of April 2, 2013, the DPPs sent a series of follow up questions to counsel for the Pool Defendants.

The Pool Defendants reviewed hard copy documents located in Covington from the FTC custodians to determine if there are any responsive records that need to be produced from the extended date period. Those documents are nearly done being scanned, with production anticipated to begin shortly. The Pool Defendants have also commenced reviewing the electronic documents that hit on the agreed-upon electronic search terms.

**C. Depositions**

The Pool Defendants agree with the list of the depositions taken to date as set forth below by the Manufacturer Defendants.

**II. MANUFACTURER DEFENDANTS' REPORT**

**A. Electronic Document Search Terms**

Counsel for the Manufacturer Defendants and Plaintiffs in good faith have engaged in numerous discussions regarding refinement of an initial proposed search term list which was circulated on March 6, 2013. Based on those discussions, as well as several rounds of testing of modifications to certain search terms, the parties have come to an agreement on an extensive list of search terms, although test results on two proposed modifications remain to be completed. Notwithstanding their agreement on a lengthy number of search terms, the parties recognize the possibility that in some situations as the document review process moves forward, individual terms may need to be modified for different parties if a particular term(s) result in the retrieval of

an unusually large volume of documents. If such a situation arises, the parties are committed to work with each other in good faith to reach a mutually acceptable resolution.

**B. Depositions**

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

Date	Party
3/8/13	DPP – SPS Services, Ltd.
3/15/13	DPP – Aqua Clear Pools & Decks
3/19/13	John Damaska – Zodiac
3/20/13	Scott Bushey – Zodiac
3/21/13	DPP – Pro Pools Services
3/22/13	IPP – Jean Bove
3/28/13	DPP – Thatcher Pools
4/1/13	James Hilton Sr. – Third Party

The parties continue to work together to schedule future party and third-party depositions, with agreed upon dates going forward through June 2013.

**C. Questions Concerning Transactional Data**

Consistent with Pretrial Order No. 17, the Manufacturer Defendants each responded by March 13, 2013 to the specific questions from Plaintiffs regarding the transactional data each Manufacturer Defendant previously produced. On April 1, 2013, the Manufacturer Defendants received follow-up questions from Plaintiffs regarding their respective transactional data and will proceed to respond to those questions.

**D. Production of Documents**

On March 4, 2013, Manufacturer Defendant Zodiac Pool Systems, Inc. produced a group of documents to Plaintiffs. (Pentair previously had produced documents to Plaintiffs comprised of its product catalogues.)

Dated: April 2, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Defendants' Fourth Biweekly Report on the Status of Fact Discovery has been served upon all parties by electronically uploading the same to Lexis Nexis File & Serve in accordance with Pretrial Order No. 8.

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/s/ Samantha Griffin