

August 30, 2013

Via ECF

The Honorable Sarah S. Vance
U.S. District Court for the Eastern District of Louisiana
500 Poydras Street
Room C255
New Orleans, LA 70130

The Honorable Joseph C. Wilkinson, Jr.
U.S. District Court for the Eastern District of Louisiana
500 Poydras Street
Room B409
New Orleans, LA 70130

Re: *In re: Pool Products Distribution Market Antitrust Litigation*,
No. 1:12-md-02328 (SSV) (JCW)

Dear Judge Vance and Magistrate Judge Wilkinson:

Pursuant to Pretrial Order No. 18, Liaison Counsel hereby submits the following agreed-upon numerical limits on party and non-party depositions. These proposed limits are exclusive of any previously noticed party or third party depositions:

Party Depositions¹

- The Parties agree that the Pool Defendants and the Manufacturer Defendants (collectively, the “Defendants”) may take up to 10 cumulative party depositions of the Direct Purchaser Plaintiffs (DPPs) class representatives;
- With respect to the DPPs’ depositions of the Defendants’ party witnesses, the Parties have agreed to the following limits:
 - The Pool Defendants: 9 depositions. Of the 9 depositions, one may be a Rule 30(b)(6) deposition covering the authenticity and admissibility of documents and issues concerning transaction data (a previously noticed topic). Two are placeholders for Pool Defendants’ personnel whom DPPs may identify during the course of

¹ The Parties have agreed that “party” depositions include both current employees of the Defendants as well as former employees of the Defendants who are being deposed primarily regarding their former employment with one of the Defendants.

depositions yet to be taken in the case, about which the parties will meet and confer once a deponent is identified to determine whether such a deposition is necessary, and, if the parties cannot agree, then the deposition will not proceed unless the Court finds that good cause exists for the deposition.

- Hayward: 7 depositions plus either a stipulation on the admissibility and authenticity of documents or, if the parties cannot agree on an appropriate stipulation, a 30(b)(6) deposition of an appropriate Hayward employee(s) on the admissibility and authenticity of documents.
- Zodiac: A maximum of 8 depositions plus either a stipulation on the admissibility and authenticity of documents or, if the parties cannot agree on an appropriate stipulation, a 30(b)(6) deposition of an appropriate Zodiac employee on the admissibility and authenticity of documents. One of the 8 depositions will be reserved for the case where an individual's significance becomes apparent during the second wave of depositions; subject to Zodiac's right to apply to the Court for relief seeking to preclude the deposition. DPPs will defer noticing another one of the depositions pending the Court's ruling on the motion to dismiss, or November 20, 2013, whichever comes first, and may ultimately forego that deposition pursuant to an agreement between the parties.
- Pentair: 9 depositions, including the deposition of a previously listed Pentair employee. DPPs also had listed as selected deponents two senior executive from Pentair's corporate parent entity and Pentair explained that it would not agree to those depositions. As a way of compromise, the parties have agreed that the depositions of the two Pentair parent company executives will be deferred at this time pending a later showing of need, and that if DPPs' later elect to pursue deposing these individuals, Pentair retains all rights to challenge the propriety and necessity of those depositions. Additionally, a 30(b)(6) deposition of an appropriate Pentair employee(s) is deferred at this time in the event the parties cannot agree on an appropriate stipulation on the admissibility and authenticity of documents. The parties agree that any such 30(b)(6) deposition may take place, without objection, after the close of fact discovery and that, in any case, the deposition would be scheduled no sooner than after the Court rules on any Motion for Summary Judgment submitted by defendants.

Non-Party Depositions

- The Direct Purchaser Plaintiffs may take up to 10 non-party depositions.
- The Defendants may take up to 10 non-party depositions.

Counsel for Indirect Purchaser Plaintiffs has been contacted and is in agreement.

Date: August 30, 2013

Respectfully submitted,

/s/ Russ M. Herman

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