

**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
	*	

JOINT REPORT FOR APRIL 1, 2015 STATUS CONFERENCE

Pursuant to Pretrial Order No. 37 (R. Doc. 569), the parties respectfully submit this Joint Report identifying all issues for discussion at the April 1, 2015 status conference.

I. The Parties' Pending Motions

Consistent with the Court's prior Orders, the parties have completed briefing on the following motions, which are now pending before the Court:

- Class Certification:
 - Direct Purchaser Plaintiffs' (DPPs') Motion for Class Certification and Appointment of Class Counsel
 - IPPs' Motion for Class Certification and Appointment of Class Counsel
- Daubert:
 - Plaintiffs' three motions to exclude certain portions of the testimony of Defendants' experts:
 - Dr. John Johnson
 - Dr. Vandy Howell
 - Dr. Michael Keeley
 - IPPs' motion to exclude, in part, the testimony of Defendants' expert Dr. Kenneth Elzinga
 - Defendants' *Daubert* motion to exclude the testimony of the DPPs' expert Dr. Gordon Rausser

- Defendants' *Daubert* motion to exclude the testimony of the IPPs' expert Dr. Kenneth Leffler
- Summary Judgment:
 - Defendants' joint motion for summary judgment on claims of a vertical conspiracy between PoolCorp and Pentair
 - Defendants' joint motion for summary judgment on the DPPs' horizontal conspiracy claims
 - Defendant PoolCorp's motion for summary judgment on claims of vertical conspiracy between PoolCorp and Hayward
 - Defendant PoolCorp's motion for summary judgment on claims of vertical conspiracy between PoolCorp and Zodiac
 - Defendant PoolCorp's motion for summary judgment on the DPPs' attempted monopolization claim and the IPPs' analogous state law claims

The Court may wish to discuss its plan for proceedings on these pending motions.

II. Plaintiffs' Issues to be Addressed at the Status Conference

A. Direct Purchaser Plaintiffs

Objections to Summary Judgment Exhibits and Testimony

Pursuant to PTO No. 30, DPPs provided to Defendants on December 15, 2014 objections to Defendants' summary judgment exhibits. Defendants provided to DPPs on March 13, 2015 objections to DPPs' exhibits submitted in support of DPPs' opposition to Defendants' motions for summary judgment. DPPs will provide to Defendants by March 31, 2015 objections to new exhibits submitted in support of Defendants' Reply briefs in support of their various motions for summary judgment. Pursuant to PTO No. 38, the parties have until April 14, 2015 to meet-and-confer in effort to resolve objections. Unresolved objections must be submitted to the Court by April 21, 2015.

The parties will be prepared to update the Court on the status of the meet and confer process at the April 1, 2015 status conference.

Status of Mediation

Consistent with the Court's prior instructions, the DPPs, IPPs, and the remaining Defendants held a mediation session in New York City with Judge Layn Phillips's on March 5, 2015. No further sessions are scheduled at this time. DPPs will be prepared to discuss at the status conference the developments from the mediation, consistent with the confidentiality agreement among the parties, counsel, and the mediator.

B. Indirect Purchaser Plaintiffs

The IPPs are continuing their cooperation with the DPPs on trial preparation matters. The IPPs met with counsel for Pentair and PoolCorp on Wednesday, March 4, 2015 in New York City to discuss settlement matters. The IPPs attended and participated in the mediation session occurring in New York City on March 5, 2015 with the parties. Progress was made with Pentair; no meaningful progress was made with PoolCorp.

III. Defendants' Issues to be Addressed at the Status Conference

In addition to the matters indicated above, Defendants believe that it would be useful for the Court and the parties to address further scheduling matters, such as possible dates for oral argument on the pending motions, as well as evidentiary hearings on the *Daubert* motions and motions for class certification.

Dated: March 25, 2015

Respectfully submitted,

/s/ Russ M. Herman

Russ M. Herman (Bar No. 6819)
Leonard A. Davis (Bar No. 14190)
HERMAN, HERMAN & KATZ, L.L.C.
820 O'Keefe Avenue
New Orleans, LA 70113
PH: (504) 581-4892

Direct Purchaser Plaintiffs'
Liaison Counsel

Robert N. Kaplan
Gregory K. Arenson
Elana Katcher
**KAPLAN FOX &
KILSHEIMER LLP**
850 Third Avenue
New York, NY 10022
212-687-1980

Ronald J. Aranoff
Dana Statsky Smith
Tania T. Taveras
**BERNSTEIN LIEBHARD
LLP**
10 East 40th Street
New York, NY 10016
212-779-1414

Jay L. Himes
Robin A. van der Meulen
**LABATON SUCHAROW
LLP**
140 Broadway
New York, NY 10005
212-907-0700

***Executive Committee Counsel
for the Direct Purchaser Plaintiffs***

/s/ Thomas H. Brill

Thomas H. Brill
Law Office of Thomas H. Brill
8012 State Line Road, Suite 102
Leawood, KS 66208
PH: (913) 677-2004

Indirect Purchaser Plaintiffs'
Liaison Counsel

/s/ David H. Bamberger

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

/s/ William B. Gaudet

William B. Gaudet (LA Bar. No. 1374)
Adams & Reese LLP
One Shell Square
701 Poydras Street, Suite 4500
New Orleans, LA 70139
PH: (504) 581-3234

Counsel for Pool Corp Defendants

/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
PH: (202) 672-5300

/s/ Wayne J. Lee

Wayne J. Lee (LA Bar No. 7916)
STONE PIGMAN WALTHER
WITTMANN L.L.C.
546 Carondelet Street
New Orleans, LA 70130
PH: (504) 581-3200

Counsel for Defendant Pentair Water Pool and Spa, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Report for April 1, 2015 Status Conference has been served on Defendants' Liaison Counsel, William Gaudet, Manufacturer Defendants' Liaison Counsel, Wayne Lee, and Indirect Purchaser Plaintiffs' Liaison Counsel, Thomas H. Brill, by e-mail, and upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pretrial Order No. 8, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2328, on this 25th day of March, 2015.

/s/ Leonard A. Davis