

**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 STATUS REPORT AND AGENDA FOR
MAY 13, 2014 STATUS CONFERENCE**

The parties respectfully submit this Joint Status Report. The Report describes (a) the progress of the case since the February 13, 2014 status conference; and (b) a list of items to be discussed at the May 13, 2014 status conference.

Direct Purchaser Plaintiffs (“DPPs”) and Indirect Purchaser Plaintiffs (“IPPs”) set forth their report in Section I. Defendants set forth their report in Section II.

I. Plaintiffs’ Status Report

A. Direct Purchaser Plaintiffs’ Status Report

Pursuant to Pretrial Order 20 (Dkt No. 334), the parties participated in a mediation session facilitated by Judge Layn Phillips on March 20, 2014. Following the mediation, the DPPs and Hayward Industries, Inc. reached a settlement-in-principle and they are in the process of drafting an appropriate settlement agreement to submit for the Court’s preliminary approval.

Regarding fact discovery, pursuant to the Court’s April 10, 2014 Order (Dkt No. 409), the deposition of Scott Levin was held on April 18, 2014. This was the last remaining fact discovery deposition.

The parties exchanged their expert reports on April 10, 2014 and anticipate exchanging their reply expert reports on June 11, 2014. The parties jointly submitted an expert deposition schedule on April 21, 2014 (Dkt No. 410). Since its filing the deposition of Keith Leffler (IPPs) has been confirmed for June 26, 2014 in Denver, Colorado. In addition, due to unforeseen circumstance the deposition dates of Michael C. Keeley and Vandy M. Howell, two of the Manufacturer Defendants' experts, need to be adjusted slightly. All parties have conferred and consented to new dates and intend to submit a stipulation, pursuant to the Court's April 24, 2014 Order (Dkt No. 411), once the two experts' signatures have been obtained.

The chart below details the revised expert disposition schedule:

Date	Deponent	Location	Affiliation
June 26, 2014	Keith Leffler	Denver, CO	IPPs
July 3, 2014	Kenneth G. Elzinga	Washington, D.C.	Manufacturer Defendants
July 10 &11, 2014	Gordon Rausser	San Francisco, CA	DPPs
July 16, 2014	John H. Johnson, IV	Washington, D.C.	PoolCorp
July 22, 2014	Vandy M. Howell	San Francisco, CA	Manufacturer Defendants
July 24, 2014	Michael C. Keeley	San Francisco, CA	Manufacturer Defendants

B. Indirect Purchaser Plaintiffs' Status Report

The IPPs participated in merits depositions until February 10, 2014 and in the limited depositions thereafter. The IPPs participated with the parties and their agreed-upon mediator, former United States District Judge Layn Phillips, in a mediation session held in New York City on March 20th. Following the mediation, the IPPs and Hayward reached an agreement-in-principle and are in the process of drafting a settlement agreement to memorialize the same. The

IPPs exchanged their expert report with the parties on April 10, 2014 and anticipate exchanging their reply expert report in timely fashion on June 11, 2014. The IPPs continue to analyze documents and work with its expert on damages issues and the reply report. There are no discovery matters or issues in dispute relating to IPPs at this time.

II. Defendants' Status Report and Issues to be Addressed at the Status Conference

A. Issues to be Addressed at the Status Conference

Pretrial Order No. 20 provides the following briefing schedule:

- September 10, 2014 All summary judgment, class certification and Daubert motions filed
- November 10, 2014 Oppositions to all such motions filed
- December 10, 2014 Replies in support of all such motions filed

Paragraph 3(h) of Pretrial Order No. 20 provides that dates for oral argument on all such motions will be determined by the Court. Defendants believe that it would be helpful to the parties and in the interests of efficient case management for the parties and the Court to discuss at the upcoming Status Conference some of the scheduling issues left open by Paragraph 3(h). In particular:

1. In regard to motions for summary judgment, what page limits, exclusive of exhibits, will be allowed for: (a) each Defendant's separate motion and brief; (b) each opposition; (c) each reply brief? Each of the Defendants faces distinct allegations and is the subject of unique evidence. For example, PoolCorp alone faces allegations of attempted monopolization in violation of Section 2 of the Sherman Act. The principal Section 1 claims consist of alleged separate vertical conspiracies between each of the Manufacturer Defendants and PoolCorp. As a

result, the Defendants consider it essential that they be permitted to submit separate motions for summary judgment with separate supporting briefs.

2. In regard to motions for class certification, what page limits, exclusive of exhibits, will be allowed for: (a) the DPPs' and IPPs' respective motion and brief; (b) each opposition; (c) each reply brief? The Manufacturer Defendants propose that they submit joint motions and briefs in response to the DPPs' and IPPs' respective motions for class certification, but the Defendants consider it essential that PoolCorp be permitted to submit separate oppositions to these two class certification motions as PoolCorp faces a separate attempted monopolization claim and has submitted its own expert report separate from the Manufacturer Defendants.
3. In regard to any *Daubert* motions, what page limits, exclusive of exhibits, will be allowed for: (a) each respective motion and brief; (b) each opposition; (c) each reply brief? The Defendants propose that, if they file any such motions, they will submit a single motion and supporting brief in support of each such *Daubert* motion.
4. Does the Court contemplate that all motions would be argued concurrently?
5. In regard to the class certification motion and any *Daubert* motion(s), will the Court permit live testimony from the experts?
6. What tentative date(s) should the parties reserve for the hearing(s)?

B. Status Report by Hayward Industries, Inc. (“Hayward”)

Defendant Hayward has reached agreements with the Direct Purchaser Plaintiffs and the Indirect Purchaser Plaintiffs to settle all claims asserted against Hayward in this litigation. The

parties are in the process of documenting these agreements and anticipate filing Motions for Preliminary Approval of these settlements in the near future.

Dated: May 7, 2014

Respectfully submitted,

/s/ Russ M. Herman

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Status Report and Agenda for May 13, 2014 Status Conference has been served on Direct Purchaser Plaintiffs' Co-Liaison Counsel, Russ Herman, Indirect Purchaser Plaintiffs' Liaison Counsel, Thomas H. Brill, Defendants' Liaison Counsel, William Gaudet, and Manufacturer Defendants' Liaison Counsel, Wayne Lee, and David H. Bamberger, Counsel for Pool Corp., 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 7th day of May, 2014.

/s/ Adam H. Weintraub
ADAM H. WEINTRAUB