

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: POOL PRODUCTS DISTRIBUTION
MARKET ANTITRUST LITIGATION**

**THIS DOCUMENT RELATES TO: ALL
ACTIONS**

* **MDL NO. 2328**
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* **SECTION R/2**
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* **Judge Vance**
* **Mag. Judge Wilkinson**
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**PLAINTIFFS' TENTH STATUS REPORT ON FACT DISCOVERY PURSUANT TO
PRETRIAL ORDER NO. 17**

Pursuant to the Court's Pretrial Order Number 17, entered on March 7, 2013, direct purchaser plaintiffs ("DPPs") and indirect purchaser plaintiffs ("IPPs") hereby submit their Tenth Status Report on the status of fact discovery. The DPPs' report on the status of discovery is included as Section I, the IPPs' report is included as Section II, and a report on the status of third-party discovery is included as Section III.

I. Status Report by the DPPs

a. Discovery From Defendants to DPPs

i. Transaction Data

On August 1, 2013, DPPs sent PoolCorp's counsel four follow-up questions concerning certain transaction data that was produced pursuant to the Court's June 20, 2013 Order. As of the date of the last status report to the Court, PoolCorp took the position that DPPs would have to seek a deposition to receive any further information about its transaction data. In addition, DPPs and PoolCorp have had a continuing discussion concerning DPPs' January 26, 2013 request for transaction data for PoolCorp's and General Pool & Spa Supply's purchases from October 1,

2010 through June 1, 2012 (“GPS”).¹ On January 26, 2013, the DPPs made a request for transaction data concerning PoolCorp’s and GPS’s purchases from October 1, 2010, through June 1, 2012. On September 9, 2013, PoolCorp’s counsel advised that answers to DPPs’ transaction data questions would be produced. Although neither the requested data nor responses to DPPs’ questions have yet been provided, PoolCorp’s counsel has advised that they hope to provide responses by the end of this week.

ii. Document Production

No additional productions have been received.

iii. Depositions

The depositions of all defendant witnesses taken by DPPs to date are listed in the table in Attachment A.

The parties have been negotiating dates for the next round of depositions of defendant witnesses, and DPPs expect to begin issuing notices for these depositions shortly.

b. Discovery From DPPs to Defendants

i. Document Production

DPPs have completed their document production.

ii. Depositions

Defendants have taken the depositions of all seven named direct purchaser plaintiffs. No further depositions have been noticed.

II. Status Report by the IPPs

The IPPs are continuing their cooperation with the DPPs on discovery matters which occurred during September. The IPPs are continuing to work with third-party swimming pool

¹ GPS is a former rival distributor purchased by PoolCorp during the relevant period and is now a wholly-owned subsidiary of PoolCorp.

product retailers and pool builders in California, Arizona, Florida, and Missouri who were previously issued document subpoenas. The IPPs continue to review and analyze documents produced by PoolCorp and the Manufacturer Defendants to the FTC. The IPPs forwarded documents belonging to the California class representative which had previously been in storage and unavailable to the parties, so document productions by IPP class representatives are complete. There are no discovery matters or issues relating to IPPs at this time.

III. Status Report on Third-Party Discovery

To date, fourteen non-party witnesses have been deposed pursuant to the subpoenas served by the Manufacturer Defendants, and the parties are currently negotiating dates for additional witnesses. In addition, DPPs are continuing to pursue document productions in connection with their previously served subpoenas *duces tecum*.

Per the parties' August 30, 2013 submission to the Court, the parties have agreed that defendants collectively and the DPPs may each take up to ten additional nonparty depositions of witnesses not currently noticed.

Dated: October 2, 2013

/s/ Russ M. Herman
Russ M. Herman
HERMAN, HERMAN & KATZ, LLC
820 O'Keefe Avenue
New Orleans, LA 70113
504-581-4892

/s/ Camilo Kossy Salas, III
Camilo Kossy Salas, III
SALAS & CO., LC
650 Poydras St.
New Orleans, LA 70130
504-799-3080

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

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

Jay L. Himes
**LABATON SUCHAROW
LLP**
140 Broadway
New York, NY 10005
212-907-0700

**Liaison Counsel and Executive Committee Counsel
for the Direct Purchaser Plaintiffs and the Class**

/s/ Tom Brill
Thomas H. Brill
Law Office of Thomas H. Brill
8012 State Line Road, Suite 102
Leawood, Kansas 66208
913-677-2004

Liaison for Indirect Purchaser Class Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Plaintiffs' Tenth Status Report on Fact Discovery Pursuant to Pretrial Order No. 17 has been served on Direct Purchaser Plaintiffs' Co-Liaison Counsel, Russ Herman and Camilo Salas, III, Indirect Purchaser Plaintiffs' Liaison Counsel, Thomas H. Brill, Defendants' Liaison Counsel, William Gaudet, and Manufacturer Defendants' Liaison Counsel, Wayne Lee, 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 2nd day of October, 2013.

/s/ Leonard A. Davis
LEONARD A. DAVIS

Attachment A

Depositions of Defendant Witnesses Taken by DPPs			
<u>Date</u>	<u>Deponent Name</u>	<u>Company Affiliation</u>	<u>Deposition Location</u>
March 19, 2013	Jon Damaska	Zodiac	Chicago, IL
March 20, 2013	Scott Bushey	Zodiac	Chicago, IL
April 3, 2013	Pentair 30(b)(6) on Code of Conduct	Pentair	Raleigh, NC
April 4, 2013	Pentair 30(b)(6) on Corporate Structure & HR	Pentair	Raleigh, NC
April 16, 2013	Enrique Gomez	Zodiac	Miami, FL
April 17, 2013	David Albee	Hayward	Newark, NJ
April 18, 2013	Doug Bragg	Hayward	Newark, NJ
April 18, 2013	Pentair 30(b)(6) on IT	Pentair	Raleigh, NC
April 19, 2013	Stephen Markowitz	Zodiac	Philadelphia, PA
April 23, 2013	Craig Goodson	Zodiac	Atlanta, GA
May 2, 2013	Pool Corp. 30(b)(6) on Pricing & Acquisitions	PoolCorp	New Orleans, LA
May 3, 2013	Melanie Housey	PoolCorp	New Orleans, LA
May 7, 2013	Robert Nichols	Hayward	Newark, NJ
May 8, 2013	Bill Cook	PoolCorp	New Orleans, LA
May 8, 2013	Paul Walter	Pentair	Las Vegas, NV
May 9, 2013	Darren Coleman	Pentair	Las Vegas, NV
May 10, 2013	Fred Manno	Hayward	Newark, NJ
May 15, 2013	John Oster	Pentair	Indianapolis, IN
May 15, 2013	Paul Snopek	Pentair	Indianapolis, IN
May 16, 2013	Scott Cummings	Pentair	Indianapolis, IN
May 22, 2013	John Hulme	PoolCorp	Boston, MA
May 23, 2013	Dan Porter	Pentair	Houston, TX
May 23, 2013	Jon Cannon	Pentair	Houston, TX
May 29, 2013	Greg Kahle	Pentair	Atlanta, GA
May 30, 2013	Mike Echols	Pentair	Atlanta, GA
June 4, 2013	William Witmarsh	Hayward	Newark, NJ
June 19, 2013	Thomas Canaday	PoolCorp	New Orleans, LA
June 25, 2013	Dale O'Dell	PoolCorp	New Orleans, LA

Attachment A

June 26, 2013	Tom Dissinger	Hayward	Newark, NJ
June 26, 2013	Rick Postoll	PoolCorp	New Orleans, LA
July 9, 2013	David Nibler	Zodiac	San Diego, CA
July 10, 2013	Barry Greenwald	Zodiac	San Diego, CA
July 11, 2013	Anthony Prudhomme	Zodiac	Los Angeles, CA
August 6, 2013	Jody Smith	Zodiac	Portland, OR