

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MDL No. 2328

IN RE: POOL PRODUCTS
DISTRIBUTION MARKET ANTITRUST
LITIGATION

SECTION: R(2)

JUDGE VANCE
MAG. JUDGE
WILKINSON

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER NO. 20

The Court held a status conference on October 21, 2013. After hearing from counsel for the parties, the Court issues the following Order:

1. By October 28, 2013, the DPPs shall advise the Court by letter whether they have any objection to the Court's consideration of the documents attached to the Manufacturer Defendants' motion to dismiss the Second Amended Complaint's allegations of a horizontal conspiracy and fraudulent concealment.¹

¹ R. Doc. 298.

MJ-STAR:	<u>1:00</u>
JS-10:	<u>1:00</u>

2. Pool Defendants shall produce purchase data for PoolCorp and GPS for the period from October 1, 2010 to June 1, 2012. Plaintiffs must bear the cost of this production. Defendants shall provide an estimate of the cost of this production to plaintiffs by October 28, 2013. Defendants shall produce this data by November 18, 2013.
3. The following previously set deadlines are extended as follows:
 - a. The deadline for completion of all fact and class certification discovery remains February 10, 2014. However, the Court approves the parties' agreement that one deposition of a Hayward employee may be taken two days after the discovery deadline.
 - b. The parties shall simultaneously exchange their expert reports on all issues on April 10, 2014.
 - c. The parties shall exchange reply expert reports on June 11, 2014.
 - d. The parties shall complete expert depositions by July 11, 2014.
 - e. All summary judgment, class certification, and *Daubert* motions shall be filed by September 10, 2014.
 - f. Oppositions to all summary judgment, class certification, and *Daubert* motions shall be filed by November 10, 2014.

- g. Replies to all summary judgment, class certification, and *Daubert* motions shall be filed by December 10, 2014.
 - h. Dates for oral argument on summary judgment, class certification, and *Daubert* motions will be determined by the Court.
4. The following schedule is set for resolution of issues concerning privilege assertions and logs for documents being withheld from production:
- a. Plaintiffs shall describe to defendants in writing all issues concerning privilege assertions and logs by November 4, 2013.
 - b. The parties shall meet and confer in good faith in an effort to resolve those issues by November 21, 2013.
 - c. Motions addressing disputes concerning privilege assertions and logs that the parties are unable to resolve without the Court's intervention shall be filed by December 15, 2013. Responses shall be filed by January 6, 2014, and the subject materials shall be submitted to the court for in camera review by that date.
5. Except as provided in Paragraph 2 of this Order, counsel have confirmed that all parties' document productions are complete.

6. The Court adopts the limits on party and non-party depositions that the parties agreed upon in their August 30, 2013 letter to the Court, attached hereto as Exhibit A. The parties are directed to advise the Court via letter of the schedule of all remaining depositions as soon as they are set.
7. The parties will contact their agreed-upon private mediator, former United States District Judge Layn Phillips, to schedule a mediation session around the date of the close of fact discovery, currently set for February 10, 2014.
8. The Court will hold the next status conference on February 13, 2014, at 10:00 a.m. Lead counsel and liaison counsel are to meet in Chambers at 9:00 a.m. The parties shall submit to the Court on February 7, 2014, a report identifying all issues the parties wish to discuss at the status conference and their position concerning those issues.

New Orleans, Louisiana, this 22nd day of October, 2013.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE

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

Russ M. Herman
HERMAN, HERMAN & KATZ, LLC
820 O'Keefe Avenue
New Orleans, LA 70113
Tel: 504-581-4892
Email: rherman@hhklawfirm.com

/s/ Camilo Kosy Salas, III

Camilo Kosy Salas, III
SALAS & CO., LC
650 Poydras Street
New Orleans, LA 70130
Tel: 504-799-3080
Email: csalas@salaslaw.com

Liaison Counsel for the Direct Purchaser Plaintiffs and the Class

/s/ William B. Gaudet

William B. Gaudet
ADAMS & REESE LLP
One Shell Square
701 Poydras Street, Suite 4500
New Orleans, LA 70139
Tel: (504) 581-3234
Fax: (504) 566-0210
Email: william.gaudet@arlaw.com

Liaison Counsel for the Pool Defendants

/s/ Wayne J. Lee

Wayne J. Lee
**STONE PIGMAN WALTHER
WITTMANN L.L.C.**
546 Carondelet Street
New Orleans, Louisiana 70130
Tel: (504) 581-3200
Fax: (504) 581-3361
Email: wlee@stonepigman.com

Liaison Counsel for the Manufacturer Defendants