

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 #5

I. Introduction

The attorneys who have appeared in this litigation are highly expert professionals who are known for their ability to work with other counsel in a collegial manner. This type of litigation places a premium on these qualities and requires counsel to fulfill their obligations as advocates in a manner that will maintain positive working relationships with fellow counsel and the Court. The Court expects, indeed demands, that professionalism and courteous cooperation permeate this proceeding from now until this litigation has concluded. The Court is confident that this objective will be achieved without judicial intervention.

II. This Order Memorializes the Court's Rulings at the Status Conference on May 30, 2012.

A. Scope of Discovery

Discovery will not be bifurcated between class and merits discovery because of the overlapping nature of the issues presented by the parties' claims and defenses.

B. Stay of Discovery

Discovery will not be stayed pending resolution of the defendants' motion to dismiss, but discovery may take place only as provided in this and future orders.

C. Schedule

At the initial conference held on May 30, 2012, the Court established the following schedule:

June 6, 2012: By this date, parties may serve third parties with document preservation subpoenas.

June 15, 2012: Protective Order(s) Due.

June 15, 2012: Clawback Agreements Due.

June 21, 2012: Plaintiffs must inform defendants which plaintiffs will appear in the Amended Complaint.

June 29, 2012: Amended Complaint Due.

June 29, 2012: Disclosures

The parties shall exchange the following information: (1) organizational charts for their businesses from 2000 through 2011; (2) a list of names, positions and locations of custodians whose electronically stored information ("ESI") the parties propose to preserve and collect; (3) a description of sources of transactional information from 2000 to the present, including the accessibility of ESI; (4) a description of the parties' electronic systems and protocols; (5) an identification of the persons most knowledgeable about the parties' electronic systems and protocols; and (6) a list of witnesses pursuant to Federal Rule of Civil Procedure 26(a)(1)(A).

June 29, 2012: ESI Protocol

The parties shall submit an ESI protocol to the Court no later than this date.

June 29, 2012: Production of FTC Documents

Defendants shall begin producing FTC documents to plaintiffs. To the extent

plaintiffs produced documents to the FTC, plaintiffs shall begin producing FTC documents to defendants. Production shall occur on a rolling basis. Any index produced to the FTC shall be produced to the opposing party, subject to any applicable work product exclusion.

August 9, 2012: Deadline for production of FTC documents. If the parties contest the relevance of types of documents produced to the FTC, the parties shall submit the documents to the Court, together with an index describing the documents. The party opposing production shall provide an explanation of why it contends the documents are not relevant. Except for the contested documents themselves, the party opposing production must serve the foregoing material on opposing counsel.

August 13, 2012: Answer and/or Motion to Dismiss Due. Defendants' opening brief shall not exceed 45 pages.

August 23, 2012: Production of FTC Documents

Responses to objections to production of FTC documents due.

August 23, 2012: Written Discovery

Parties shall exchange realistic lists of the types of information and documents they need to prove their claims and defenses. These lists shall describe information in practical terms, and will not be submitted to the Court.

September 6, 2012: Responses to lists due. Responses must identify the information that will be produced without objection and the information that is objectionable, with the reasons for the objections.

September 7 through

October 3, 2012: The parties shall meet and confer about their discovery proposals and objections. Individuals knowledgeable about the parties' documents and information systems shall be available for consultation during these conferences.

September 24, 2012: Plaintiffs' Response to Motion to Dismiss Due. Plaintiffs' Response shall not exceed 45 pages.

October 8, 2012: Defendants' Reply Due. Defendants' Reply to Plaintiffs' Response to the Motion to Dismiss shall not exceed 15 pages. The Court will receive no further briefs on the Motion to Dismiss.

October 10, 2012: Written Discovery
The parties shall jointly submit to the Court (1) a list of the information/documents they agree to produce, and (2) a list of the categories or types of information/documents to which they object to production, together with the reasons for their objections.

October 17, 2012: Oral Argument on Motion to Dismiss at 10:00 a.m.

October 25, 2012: Discovery Conference with the Court at 10:00 a.m. on written discovery issues.

D. Next Conference

The next status conference will be held on **Wednesday, July 11, 2012 at 10:00 a.m.** The parties shall submit to the Court a joint list of issues requiring resolution by **Friday, July 6,**

2012. The parties shall be prepared to report to the Court at the conference on the progress of their efforts since the last conference.

New Orleans, Louisiana, this 4th day of June, 2012.



SARAH S. VANCE

UNITED STATES DISTRICT JUDGE