

**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 IN RESPONSE TO PRETRIAL ORDER NO. 23

This Joint Report responds to Pretrial Order No. 23, filed May 13, 2014, where the Court directed, in pertinent provisions, that the parties submit:

(1) “proposals regarding page limits for the foregoing motions [for summary judgment, class certification, and Daubert challenges], responses, and replies”; and

(2) “a schedule for resolving disputes concerning the admissibility of evidence to be submitted with summary judgment motions. That schedule must provide that, by June 30, 2014, the parties will submit to the Court (a) a list of the documents whose admissibility is in dispute and (b) a brief statement of each party's position as to each disputed document.” *Id.* ¶¶ 4 and 5.

I. Proposed Page Limits Regarding Motions, Responses and Replies

The parties attach as Exhibit A a comprehensive proposal setting forth their proposed page limits on all moving, opposing, and reply briefs filed on the summary judgment, class certification, and *Daubert* motions, which the Court addressed in paragraphs 1 through 3 of Pretrial Order No. 23.

II. Schedule for Resolving Disputes Concerning the Admissibility of Summary

Judgment Evidence

The parties propose the following schedule:

June 13: The two sides exchange lists of potential exhibits in an editable Excel spreadsheet format, with a column provided for the other side's objections.

July 2: The two sides exchange objections to individual listed documents.

July 7-16: This period will be available to attempt to resolve objections.

July 21: The two sides exchange proposed spreadsheet submissions to the Court for unresolved document objections.

July 25: Submission to the Court of unresolved objections.

This proposed schedule contemplates a modest extension of the June 30 deadline, which the Court included in Pretrial Order No. 23. The need for this extension became apparent as the two sides worked through the individual steps of (1) identifying potential summary judgment exhibits well in advance of the September 10 filing date for the motions themselves, and thereafter (2) preparing the lists of documents, (3) reviewing each other's list for possible objections, (4) presenting and seeking to resolve any objections, and finally (4) submitting to the Court the two sides' positions on remaining objections.

Besides working through issues regarding summary judgment documents, both sides also are committing significant resources in June to completing expert reply reports and to analysis in preparation for expert depositions, which begin the end of June. Thus, the parties require additional time to simultaneously deal with summary judgment document admissibility issues. This extension will also give both sides a better opportunity to determine whether materials cited by experts in their June 11 reply reports should be included as summary judgment exhibits, or whether to add, as exhibits, materials responsive to those cited in expert reply reports.

The proposed July 25 date for Court filings on remaining document objections would be 20 days before the Court's scheduled August 14 conference. This would afford the Court an opportunity to raise with the parties, in advance of the conference, any matters resulting from the admissibility issues presented in the papers.

Accordingly, the parties respectfully request this extension of the schedule concerning the admissibility of summary judgment documents. If this proposed extension is acceptable to the Court, we will promptly submit an appropriate stipulation setting out the schedule, as the Court may direct.

Dated: May 23, 2014

Respectfully submitted,

/s/ Russ M. Herman

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Report in Response to Pretrial Order No. 23 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 23rd day of May, 2014.

/s/ Adam H. Weintraub

ADAM H. WEINTRAUB

In re: Pool Products Distribution Market Antitrust Litigation
Agreed-Upon Proposed Briefing Limits

<u>Motion for Class Certification</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Direct Purchaser Plaintiffs	All Defendants	70 pages	70 pages	35 pages
Indirect Purchaser Plaintiffs	All Defendants	70 pages	70 pages	25 pages
<u>Motion for Summary Judgment - Attempted Monopolization</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Pool Defendants	DPPs + IPPs	40 pages	40 pages	20 pages
<u>Motion for Summary Judgment - Horizontal Conspiracy</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Pool Defendants + Manufacturer Defendants	DPPs	30 pages	30 pages	15 pages
<u>Motion for Summary Judgment - Vertical Conspiracy With Hayward</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Pool Defendants	DPPs + IPPs	35 pages	35 pages	20 pages
<u>Motion for Summary Judgment - Vertical Conspiracy With Pentair</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Pool Defendants + Pentair	DPPs + IPPs	35 pages	35 pages	20 pages
<u>Motion for Summary Judgment - Vertical Conspiracy With Zodiac</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
Pool Defendants + Zodiac	DPPs + IPPs	35 pages	35 pages	20 pages
<u>Daubert Challenges to Expert Witnesses (Per Expert)</u>				
<u>Movant(s)</u>	<u>Opponent(s)</u>	<u>Opening Brief</u>	<u>Opposition Brief</u>	<u>Reply Brief</u>
DPPs + IPPs	All Defendants	20 pages	20 pages	10 pages
All Defendants	DPPs + IPPs	20 pages	20 pages	10 pages