

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: E. I. DU PONT DE
NEMOURS AND COMPANY C-8
PERSONAL INJURY LITIGATION,**

**Civil Action 2:13-MD-2433
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Elizabeth P. Deavers**

This document relates to: ALL CASES.

PRETRIAL ORDER NO. 13

December 11, 2013 Conference Order

This matter came before the Court for an in-person status conference on December 11, 2013. This Order memorializes the results of the conference as follows:

The Court first conferred with counsel regarding the status of the Plaintiff Fact Sheets (“PFS”). The parties reported that sixty-eight Plaintiffs have timely produced PFS and that the three PFS which are presently due will be produced shortly. The remaining Plaintiffs will produce their PFS as they become due.

The Court next confirmed that the parties agreed to the form and procedure for the procurement of Plaintiffs’ medical records. Following the conference, the Court entered Case Management Order Number 5 (ECF No. 128), which governs medical record procurement and conflict resolution procedures for disputes arising from Defendant’s efforts to obtain medical records.

The Court then conferred with counsel regarding the status of the Defense Fact Sheets

(“DFS”). Defense Counsel articulated objections to the proposed DFS, but indicated that most of Defendant’s concerns would be alleviated if Plaintiffs’ Counsel requested the information via interrogatories. Plaintiffs’ Counsel agreed to propound interrogatories upon Defendant in lieu of pursuing DFS.

Plaintiffs’ Counsel indicated that Plaintiffs objected to Defendant’s Motion for Leave to Depose Certain Witnesses (ECF No. 126) on the grounds that Defendant had failed to establish good cause for re-opening depositions. The parties indicated that they had not had the opportunity prior to the conference to attempt to negotiate an extrajudicial resolution of this dispute. In light of this, the parties proposed and the Court agreed to suspend Plaintiffs’ opposition deadline to Defendant’s Motion for Leave to Depose Certain Witnesses. Accordingly, the default briefing schedule set forth in Southern District of Ohio Local Civil Rule 7.2(a)(2) shall not apply to Defendant’s Motion for Leave to Depose Certain Witnesses. The parties are **DIRECTED** to file a Notification with the Court upon resolution of the outstanding disputes or upon impasse. Plaintiffs must file their Memorandum in Opposition, if any, **WITHIN FOURTEEN (14) DAYS** of this Notification. Defendant’s Reply Memorandum, if any, is due **WITHIN SEVEN (7) days** of Plaintiffs’ Memorandum in Opposition.

Plaintiffs’ Counsel also expressed dissatisfaction that to date, Defendant had not produced responsive, non-confidential documents that The Little Hocking Water Association, Inc. or other third-parties produced in *The Little Hocking Water Association, Inc. v. E.I. Du Pont De Nemours and Company* (“*Little Hocking*”), No. 2:09-cv-1081 (S.D. Ohio), as required under this Court’s Pretrial Order Number 10 (ECF No. 83). Defense Counsel asserted that producing the documents at issue would be overly burdensome, explaining that production would require a

document-by-document review of more than 200,000 documents that are of little relevance to this action. The parties agreed to pursue an extrajudicial resolution. As part of this process, Defense Counsel agreed to provide Plaintiffs' Counsel with the identity of the producing third-parties in *Little Hocking* as well as a general description of the categories of documents included within the production. Plaintiffs' Counsel agreed to informally reach out to representatives from these third-parties and the Little Hocking Water Association, Inc. to ascertain whether these entities would be amenable to entering into a confidentiality agreement with Plaintiffs or informally producing the documents at issue. In order to assist Plaintiffs with obtaining transcripts of depositions taken in *Little Hocking*, Defense Counsel agreed to provide Plaintiffs' Counsel with the names of the witnesses, the dates of the depositions, and the identity of the court reporting agency. Plaintiffs' Counsel expressed their intention to file a motion to compel in the event the parties are unable to extrajudicially resolve the outstanding disputes.

Finally, the parties informed the Court that they had agreed upon a mediator, attorney Frank Ray, and that they met with Mr. Ray in November 2013.

The next conference will be held by telephone and is scheduled for **JANUARY 15, 2014, at 12:00 p.m.** The Court will issue a separate Notice of this conference providing the call-in information. The next in-person status conference is scheduled for **FEBRUARY 12, 2014, at 1:30 pm.** in **Room 301** of the United States District Court, Joseph P. Kinneary United States Courthouse. As set forth in the Court's April 12, 2013 Order (ECF No. 2), the parties must confer prior to the conferences and file with the Court, no later than two business days prior to the conference, an agenda of issues to be addressed. The Court also reminds the parties to email a list of participants and their email addresses to the Court no later than two business days prior

to the conference.

IT IS SO ORDERED.

12-16-2013
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE