

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. 16

April 1, 2014 Conference Order

This matter came before the Court for an in-person status conference on April 1, 2014.

This Order memorializes the results of the conference as follows:

Defense counsel first raised the issue of whether Case Management Order Number 5 governs Plaintiffs' requests to third-party vendor Medical Research Consultants for C-8 Health Project records. The Court took the matter under advisement and will issue a separate order, Discovery Order Number 2, resolving Defense Counsel's inquiry.

The parties next reported that they were prepared to select their discovery pool plaintiffs. The parties agreed that the exchange would take place at **4:00 p.m. on APRIL 2, 2014**, via email.

The Court next conferred with counsel regarding the status of the DuPont's Motion for Leave to Depose Certain Witnesses (ECF No. 126) and Plaintiffs' First Motion to Compel (ECF

No. 211). Defense counsel represented that its determination of whether to pursue or withdraw its motion would depend, in part, upon the selection of the discovery pool plaintiffs. The Court advised the parties that it would rule on Plaintiffs' motion after completion of briefing.

Plaintiffs next raised issues regarding DuPont's responses to Plaintiffs' October 2013 master discovery requests and its production of its privilege log. Plaintiffs indicated that DuPont's production is incomplete insofar as DuPont failed to provide documents from approximately fifty custodians and further failed to offer an explanation for the absence of documents from these custodians. Defense counsel represented that DuPont intends to provide an explanation concerning these custodians and anticipates resolution of this issue within the next two weeks. Plaintiffs also raised deficiencies with regard to the privilege log DuPont produced on March 31, 2014. Plaintiffs represent that the 120-page privilege log fails to contain the level of specificity the parties agreed upon. Plaintiffs also seek production of the privilege log in electronic format. Defense Counsel agreed to discuss the issues Plaintiffs raised and to evaluate whether supplementation is appropriate. The parties agreed to raise this issue during the next conference in the event they are unable to reach a resolution.

The parties next informed the Court that the law firm of Hill, Peterson, Carper, Bee, & Deitzler had filed 966 cases in a West Virginia state court. Attorney Harry Deitzler of Hill, Peterson, Carper, Bee, & Deitzler represented that he intends to file approximately 2,800 cases, inclusive of the 966, before the end of the year. Defense counsel indicated that DuPont had not yet determined whether it will remove these cases and raised the issue of whether it would be appropriate to waive, reduce, or re-allocate the removal fees in light of the sheer volume of cases at issue. To the extent DuPont intends to seek Court action, it has agreed to file a motion

outlining any such request and the authority supporting the requested action **ON OR BEFORE APRIL 10, 2014**. Plaintiffs' memorandum in opposition to any such motion is due **ON OR BEFORE APRIL 17, 2014**, with any Reply due **ON OR BEFORE APRIL 24, 2014**. Mr. Deitzler also solicited a decision from DuPont regarding the appropriate method of service of these state-court complaints. Defense counsel represented that it would send correspondence, via facsimile transmission, to Mr. Deitzler before the close of business on April 2, 2014, instructing Mr. Deitzler on its preferred service method.

The next conference shall be held by telephone and is scheduled for **APRIL 17, 2014, at 3:00 p.m.** The Court will issue a separate Notice of this conference providing the call-in information. The next two in-person status conferences are scheduled for **MAY 6, 2014, at 1:30 p.m.** and **JUNE 10, 2014, at 1:30 p.m.** 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.

4-3-2014
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE