

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
CHIEF JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Elizabeth Preston Deavers**

This document relates to: ALL CASES.

PRETRIAL ORDER NO. 45

April 18, 2016 Conference Order

This matter came before the Court for an in-person status conference on April 18, 2016.

This Order memorializes the results of that conference as follows:

The conference started with the Court's inquiry into the status of DuPont's filing of the appeal in the *Bartlett* case. DuPont's counsel confirmed that the appeal would be filed forthwith.

The parties next jointly proposed Case Management Order No. 17, regarding the initial schedule for the 40 cancer trials that will begin in May 2017. The Court indicated that it would adopt the Order.

In the same vein, the Court explained that its view is that the sickest plaintiffs should have priority selection so that their cases are tried first. The Court took argument from the parties on their positions, and ultimately decided that its vision of order for the cases is the most fair. The Court highlighted that, through no fault of the counsel, the plaintiffs in this MDL have had their cases pending for 15 years. The Court indicated that the bellwether trials are generally

utilized as devices to encourage settlement, but that once the bellwether process is complete that concept disappears. Thus, the prioritization of the sickest plaintiffs is the most just, and is in accord with the docket management procedures regularly utilized by the Court.

The parties subsequently discussed the possibility of preserving by video some of the various experts' trial testimony so that the same expert can be utilized in the upcoming 2017 trials. The parties are in agreement to work toward such a procedure.

The Court also took a report from DuPont on the status of its potential merger with Dow Chemical Company. Plaintiffs' counsel indicated that it was not satisfied with DuPont's response, in that it did not explain the allocation of the obligations and liabilities under the *Leach* Settlement Agreement. Plaintiffs also argued that they are entitled to more information related to *Chemours*, based on that company's recent SEC filing. The Court ordered additional briefing on both issues.

Next, the Court informed the parties that it reviewed their proposed jury questionnaire, and accepted it with a minor revision.

The parties then updated the Court on the status of the remaining two bellwether trials, indicating that they were progressing as anticipated.

The Court next addressed the 40 cancer case trials, indicating that the Southern District of Ohio has a seat of court in St. Clairsville and plans to try some of the 40 trials there. The Court has several judges from Wheeling, West Virginia who have volunteered to try some of the cases. Because Wheeling is very close to St. Clairsville, the parties agreed to select the juries there and to try the cases in the federal courthouse in Wheeling.

Last, the next in person status conference was not scheduled because the final pretrial conference is just two weeks away.

IT IS SO ORDERED.

7-15-2016
DATE


EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE