

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 P. Deavers

This document relates to: ALL CASES.

PRETRIAL ORDER NO. 40

December 2, 2015 Conference Order

This matter came before the Court for an in-person status conference on December 2, 2015. This Order memorializes the results of the conference as follows:

1. Defense counsel discussed with the Court his desire to minimize filings by providing a one-page notice of refile of any motion or brief on which the Court had previously rendered a decision. The Court indicated that such a practice was acceptable. The parties should provide in such a notice the docket location of the previously filed motion and/or brief and the docket location of the Court's decision related to the motion or brief, as well as the Court's holding.
2. The parties next addressed their work on drafting proposed stipulations regarding the Court's prior rulings. The Court encouraged the parties to continue work on this endeavor.
3. The next item on the agenda was the supplementation of expert reports. With the Court's assistance, the parties agreed that the plaintiffs may supplement the expert report of Michael B. Siegel, M.D., MPH and that the defendant may do the same with the report of Mr.

Flayerty. Therefore, the plaintiffs' motion requesting permission to supplement Dr. Siegel's report is **GRANTED**. (ECF No. 4264.) The parties indicated that they do not intend to re-depose these two witnesses. If either side later decides to re-depose one of these witnesses, it will provide reasonable notice of its intention.

4. Defense counsel proposed for discussion the topic of jury questionnaires for the upcoming Wolf trial. The Court offered its thoughts on questions that would be appropriate to add to the jury questionnaires. The parties may submit to the Court their proposed additional questions prior to the next status conference. The parties shall add this topic to the proposed agenda for that conference.

5. The Court raised the issue of whether Mr. Wolf intended to pursue his battery claim. Plaintiffs' counsel indicated that they would discuss the issue and provide a response at the next status conference.

6. The parties then discussed with the Court several post-trial motions filed in the Bartlett case that are not yet fully briefed. The Court will address them in a timely manner once at issue so that the appeal in that case may be filed as quickly as possible.

7. Plaintiffs' counsel brought their pending motion to compel to the Court's attention. (ECF Nos. 4106, 4195.) They indicated that their request has been narrowed and that there are new and/or changed circumstances that they would like to present to the Court. The Court anticipates the plaintiffs filing a supplement to that motion and will provide the defendant fourteen days to respond to the supplement. In the supplement, the plaintiffs are directed to clearly specify the narrowed request they are making.

8. The next issue addressed was the procedure that may be utilized to provide trials to the approximately 3500 plaintiffs that are part of this multidistrict litigation but are not one of

the plaintiffs whose case was chosen as a bellwether trial. The plaintiffs may make their proposal in a brief filed on or before December 18, 2015. The defendant may respond to that brief and make its suggestions for an appropriate procedure by January 8, 2016. The plaintiffs may file a reply by January 22, 2016.

8. Finally, the Court set the next in-person status conference for Wednesday January 27, 2016, at 1:30 p.m.

IT IS SO ORDERED.

12-3-2015
DATE



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