

**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. 17

April 17, 2014 Conference Order

This matter came before the Court for a telephonic status conference on April 17, 2014.

This Order memorializes the results of the conference as follows:

The parties first reported that they have made some headway with regards to the alleged deficiencies Plaintiffs identified in DuPont's responses to Plaintiffs' October 2013 master discovery requests. The parties are continuing to meet and confer regarding the production of documents from a DuPont custodian. The parties further represented that they are working to extrajudicially resolve the alleged deficiencies with DuPont's privilege log. The parties also informed the Court that they are engaged in discussions concerning the propriety of a tolling agreement.

The Court next conferred with the parties regarding the status of various pending motions. DuPont expressed its desire for expedited briefing on and resolution of Plaintiffs'

pending Motion for Protective Order (ECF No. 227). Plaintiffs' counsel expressed their intention to use their best efforts to file their Reply on or before April 24, 2014. With regard to Plaintiffs' First Motion to Compel, Plaintiffs' counsel clarified that Plaintiffs did not agree to stipulate to the use of the January 9, 2013 testimony of Dr. Robert Rickard or the July 31, 2002 testimony of Dr. Gerald Kennedy as the corporate testimony of DuPont, notwithstanding the April 15, 2014 email Defense counsel Mr. Mace sent to Plaintiffs' counsel Mr. Bilott purporting to reflect such a stipulation.


The parties next raised a dispute arising from DuPont's proposed methodology for scheduling the depositions of the Discovery Pool Plaintiffs' treating physicians. Specifically, Plaintiffs' counsel expressed their objections to DuPont's proposal to schedule the depositions via its administrative contacts at the doctors' offices, citing Case Management Order Number Four ("CMO No. 4"). Upon hearing the parties' respective arguments, the Court agreed that CMO No. 4, paragraph sixteen, which prohibits *ex parte* communications between DuPont and Plaintiffs' treating physicians "beyond what is reasonably necessary to facilitate the ordering and/or obtaining of medical records" absent a Court order to the contrary, operates to prohibit the contact with Plaintiffs' treating physicians that DuPont proposed.

Finally, the parties indicated that they are continuing to work cooperatively to draft a proposed case management order establishing a protocol by which the parties will select the Discovery Plaintiffs to serve as a pool from which the Court shall select the initial trial cases. The parties anticipate reaching such an agreement prior to the May 6, 2014 in-person status conference.


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.

4-22-2014
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE