

**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. 26

September 10, 2014 Conference Order

This matter came before the Court for an in-person status conference on September 10, 2014. This Order memorializes the results of the conference as follows:

The Court initially informed the parties that it had made its selection of the first two bellwether trial cases. The Court invited further comment from counsel to supplement the submissions already made to the Court related to their choices. In those submissions, both sides presented the three Plaintiffs each and commented on the other parties' choices. After hearing from counsel, the Court announced that DuPont's choice of Carla Marie Bartlett's case, No. 13-cv-00170, will be the first case tried, and Plaintiffs' choice of John Wolf's case, No. 14-cv-00545, will be the second trial. As to the remaining four Plaintiffs chosen by counsel, the Court addressed the presumption that they would be the next four bellwether trials as established in Case Management Order ("CMO") No. 7. The Court informed the parties that this presumption is a very strong one that will not be easily rebutted.

The Court also questioned the parties as to their anticipated use of dispositive motions in the cases chosen for trial. DuPont first indicated that the purpose of any case-specific summary judgment motions is to raise issues that may be generally applicable to other cases in this MDL so that the Court's decision may be instructive to those cases. Second, DuPont suggested that the motions may be used to "clean up the pleadings," attempting to dispose of certain causes of action. Plaintiffs' counsel responded that they may stipulate to the dismissal of some claims for relief. The parties will meet and confer on this issue before filing dispositive motions. Plaintiffs' counsel confirmed that they will inform all other plaintiffs' counsel whose clients may be affected by any dispositive motion filed by DuPont.

With regard to the remaining issues addressed at the conference, the parties first reported to the Court that DuPont's 30(b)(6) witness depositions are complete and that the remaining depositions are scheduled.


The parties next discussed the status of the process for involving the mediator, Frank Ray. Mr. Ray was in attendance at the conference. In discussing the general utilization of Mr. Ray, the parties agreed that they may, either jointly or separately, contact Mr. Ray any time they believe he could be of assistance. The parties also indicated that they anticipate that Mr. Ray will be in communication with the Court regarding the mediation progress. The parties reported that they were in the process of drafting an agreed CMO regarding the specific structure of the mediation process that they anticipate proposing to the Court within the next few weeks. The Court will submit the proposed CMO to Mr. Ray for comment.

Finally, the Court set the next in-person status conference for **October 29, 2014, at 1:30 p.m.** in Room 301 of the United States District Court, Joseph P. Kinneary United States Courthouse. The Court also scheduled a telephone conference for **October 7, 2014, at 8:20 a.m.**


In the event the parties believe that this telephone conference is unnecessary, they will inform the Court and the conference will be vacated. 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. If any of those issues relate to proposed orders or other documents the parties plan to discuss with the Court during the conference, those proposed orders or other documents should be submitted with the agenda.

IT IS SO ORDERED.

9-11-2014
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE