

**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. 8

September 5, 2013 Conference Order

Prior Discovery Review Deadlines for Admissions and Depositions

This matter came before the Court for an in-person status conference on September 5, 2013. This Order memorializes the results of the conference as follows:

The parties brought to the Court's attention two inaccuracies in prior orders. The first relates to an exhibit that was inadvertently omitted from Case Management Order No. 3. The Court's docketing clerk has since attached the exhibit to that Order. The second relates to an inaccuracy in Pretrial Order No. 6. The Court will correct that inaccuracy by separate order titled Pretrial Order No. 6-A.

The Court discussed with the parties the anticipated scope of discovery. The parties briefly reviewed with the Court the discovery that has been accomplished in the past litigation between the plaintiffs and Du Pont, including in *Leach v. E. I. du Pont de Nemours & Co.*, No.

01-C-608 (W. Va. Cir. Ct.). A conservative estimate is that this discovery has produced, *inter alia*, well over one million documents, hundreds of answers to interrogatories and admissions, and approximately forty-eight (48) depositions. The Court starts with the premise that all of this discovery is available for use in this MDL, with supplementation to occur as necessary and as described in the Federal Rules of Civil Procedure. Defendant will review all admissions made in the prior litigation, and within three (3) months of the date of this Order, shall serve notice of its intention to supplement, modify, or otherwise change any prior admission. The depositions taken in the prior cases may be used in this case to the extent permitted by law. No party may re-depose any such witness, except upon motion and a showing of good cause. Any such motion shall be filed no later than three (3) months from the date of this Order.

The Court additionally conferred with the parties about discovery as it relates to the Science Panel findings and the Science Panel members. The parties are in agreement that although the Science Panel findings are available for utilization in this MDL, the individual panel members are not available for any individual discovery.

The Court discussed with the parties Du Pont's disclosures relating to insurance coverage and the status of the ESI Protocol. The parties agreed that they will meet and confer regarding these issues and believe that they can be satisfactorily resolved before the next status conference. In the event the parties are unable to reach a resolution, the Court will resolve the remaining issues at the next conference.

The Court next conferred with the parties about the Plaintiff Fact Sheets ("PFS"). The parties informed the Court that they are on target to meet the September 16, 2013 deadline established in Case Management Order No. 2 (ECF No. 30) for completion of the PFS.

Finally, the Court discussed the parties' progress in selecting a mediator. The parties will continue to discuss this issue and shall report at the next status conference the identity of mediators upon whom they have agreed.

The next status conference shall be held by telephone on **October 3, 2013, at 8:30 a.m.** The Court will issue a separate Notice of this conference providing the call-in information. The next in-person status conference is scheduled for **October 23, 2013, at 2:30 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 status conference and file with the Court, no later than two business days prior to the conference, an agenda of issues to be addressed. The parties shall also email a list of participants and their email addresses to the Court no later than two business days prior to each conference.

IT IS SO ORDERED.

9-6-2013
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE