

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In re Polyurethane Foam Antitrust  
Litigation

Case No. 1:10 MD 2196

ORDER RE: JUNE 24 CONFERENCE

This document relates to:  
ALL CASES

JUDGE JACK ZOUHARY

This Court held a record Conference on June 24, 2014 (Court Reporter: Angela Nixon) to discuss certain discovery and scheduling matters. See transcript for details.

Defendant FFP Holdings (“FFP”) LLC’s Motion *in Limine* to Exclude Evidence of Charles Moeller’s Assertion of his Fifth Amendment Privilege, or in the Alternative, for an Order Compelling Testimony by Moeller (Doc. 1184), is denied. This Court will not compel non-party Witness Moeller to sit for a second deposition; a witness may be compelled to testify over a Fifth Amendment invocation in extremely limited circumstances, which do not exist here. *See, e.g., In re Flat Glass Antitrust Litig.*, 385 F.3d 350, 371 (3d Cir. 2004). FFP may re-raise its Motion *in Limine* at a more appropriate time, but no sooner than the conclusion of summary judgment briefing. At that time, independent evidence (if any) of FFP or Moeller’s participation in the alleged conspiracy should be specifically set forth. Finally, by agreement of FFP and Moeller, FFP has now filed a public version of the Motion *in Limine* (Doc. 1250). Therefore, Moeller’s Motion to Unseal (Doc. 1227) is denied as moot.

Parties are invited to file position briefs, collecting cases that are similar to the type and scope of claims asserted in this action and explaining the trial approach employed in such cases (*e.g.*, bifurcated or not, trial duration, use of a single or multiple juries) by **Friday, June 27, 2014**. This Court will then use those position briefs, along with the parties' prior filings (Docs. 1234, 1243 & 1244) and oral argument, to determine: which case or cases will proceed to trial, when and where trial will be held, and other specific protocols.

The Direct Purchaser Class will consult with defense counsel and file a proposed Class Notice by **Thursday, July 3, 2014**.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

June 26, 2014