

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: SORIN 3T HEATER-	)	MDL DOCKET NO. 2816
COOLER SYSTEM PRODUCTS	)	Civil Action No. 1:18-MD-2816
LIABILITY LITIGATION (NO. II)	)	
	)	
	)	Hon. John E. Jones III
	)	
	)	THIS DOCUMENT RELATES TO:
	)	<b>ALL CASES</b>

**CASE MANAGEMENT ORDER NO. 9**  
**RE: ESTABLISHING OBLIGATIONS OF PLAINTIFFS' LEADERSHIP**  
**GROUP**

**July 10, 2018**

This matter having been before the Court for an initial case management conference on May 31, 2018, and the Court having entered Case Management Order No. 3 appointing Plaintiffs' Lead Counsel, Plaintiffs' Liaison Counsel, and Plaintiffs' Executive Committee ("PEC") (collectively "Plaintiffs' Leadership Group"), the Court enters this Case Management Order to define the roles of the members of Plaintiffs' Leadership Group.

A. Plaintiffs' Lead and Liaison Counsel

Plaintiffs' Lead Counsel shall have the following responsibilities.

1. Chair the PEC, which shall be generally responsible for coordinating the activities of plaintiffs' counsel during pretrial proceedings as set forth below.

2. Schedule PEC meetings and keep minutes or transcripts of these meetings.
3. Sign and file pleadings relating to all actions.
4. Bind the PEC in scheduling depositions, setting agendas, entering into stipulations, and in other necessary interactions with defense counsel.
5. Present, after consultation with the PEC and other counsel as may be appropriate, personally or by designee, the position of plaintiffs on any matter arising during pretrial proceedings.
6. Delegate specific tasks to other counsel to ensure that pretrial preparation for plaintiffs is conducted effectively, efficiently, and economically, including the creation of subject matter-specific or other working groups.
7. Prepare and distribute to the parties periodic status reports, as appropriate.
8. Prepare and to ensure the preparation by others of adequate and reasonable time and disbursement records where appropriate.
9. Coordinate and lead discussions with the Court, other plaintiffs' counsel, defense counsel, and non-parties to ensure that court orders are followed, schedules are met, discovery is conducted and provided

consistent with the requirements of Fed. R. Civ. P. 26, unnecessary expenditures of time and funds are avoided, and any negotiations are reasonably efficient and productive.

10. Establish and maintain, in conjunction with the PEC and to the extent deemed desirable by the PEC, a physical or virtual depository of documents located within the Court's jurisdiction, or otherwise accessible to all MDL plaintiffs' counsel.
11. Assist in providing access to participating counsel to any common-benefit document depository and common-benefit work-product, in accordance with the terms of Case Management Order No. 5 establishing the Common Benefit Fee and Expense Funds and the corresponding Participation Agreement.
12. Establish and maintain a comprehensive service list of counsel of record and promptly advise the Court of any changes.
13. Act as the primary contact between the Court and plaintiffs' counsel.
14. Receive, on behalf of all plaintiffs' counsel, orders, notices, and correspondence from this Court applicable to all plaintiffs.
15. Transmit copies of such orders, notices, and correspondence from this Court to all plaintiffs' counsel of record when service is not already effected upon them electronically via the Court's CM/ECF system.

16. Keep plaintiffs' counsel advised of all pertinent developments in the MDL.
17. Establish and maintain a depository for orders, notices, pleadings, hearing transcripts, and other documents served upon plaintiffs' counsel, and to make them available to all MDL plaintiffs' counsel upon reasonable request.
18. Communicate with State Liaison Counsel to ascertain the status of related state-court actions.
19. Provide information about related state-court actions to the Court and counsel.
20. Perform any other function as the Court may order.
21. Facilitate when appropriate settlement discussions

B. Plaintiffs' Executive Committee

Plaintiffs' Executive Committee shall have the following responsibilities.

1. Discovery
  - a. Initiate, coordinate, and conduct all pretrial discovery on behalf of plaintiffs in the MDL proceedings and coordinate to the extent possible with any state court actions to avoid duplicative depositions or other inefficient discovery;
  - b. Develop and propose to the Court through Liaison Counsel

schedules for the commencement, execution, and completion of all discovery on behalf of all plaintiffs;

- c. Act as the primary initiator of all necessary discovery requests, motions, and subpoenas concerning any witnesses and documents needed to prepare for the trial of this litigation (similar requests, motions, and subpoenas may be issued by the PEC upon written request by an individual attorney in order to assist him/her in the preparation of the pretrial stages of his/her client's particular claims).
- d. Act as the primary initiator of all discovery in a coordinated and consolidated manner on behalf and for the benefit of all plaintiffs.

2. Hearings and Meetings

- a. Call meetings of counsel for plaintiffs for any appropriate purpose, including coordinating responses to questions of other parties or of the Court.
- b. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matters concerning pretrial proceedings.
- c. Submit and argue any verbal or written motions presented to the Court or Magistrate on behalf of the PEC as well as oppose

when necessary any motions submitted by the Defendants or other parties that involve matters within the PEC's scope of the responsibilities.

- d. Examine witnesses and introduce evidence at hearings on behalf of plaintiffs.

3. Trial

- a. To coordinate the selection, management, and presentation of any common issue, bellwether, and/or test case trials.

4. Miscellaneous

- a. Negotiate and enter into stipulations with Defendants regarding pretrial issues, subject to the approval of the Court.
- b. Participate in the potential settlement of cases on behalf of plaintiffs or plaintiff groups, including exploring and, where appropriate, pursuing all settlement options concerning any claim or portion of any case filed in this litigation.
- c. Create such committees and subcommittees of the PEC as are necessary to efficiently carry out its responsibilities, to designate members thereof, and to delegate common benefit work responsibilities to selected counsel (including non-members of the PEC) as may be required for the common

benefit of plaintiffs.

- d. Perform any other function as the Court may order.

C. Privileges Preserved

Because cooperation among counsel and the parties is essential for the orderly and expeditious resolution of the litigation, the communication, transmission, or dissemination of information among plaintiffs' counsel shall be subject to the joint attorney-client privilege and the protections afforded by the attorney work-product doctrine; provided, however, that the conditions necessary to create such a privilege or protection have been satisfied and the privilege or protection has not been waived. This provision does not limit the rights of any party or counsel to assert the attorney-client privilege or attorney work product doctrine. Nor does this provision expand or create a protection or privilege that the parties do not otherwise already enjoy.

**SO ORDERED:**

s/ John E. Jones III  
Honorable John E. Jones III  
United States District Court Judge