

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

IN RE: AQUEOUS FILM-FORMING FOAMS  
PRODUCTS LIABILITY LITIGATION

MDL No. 2:18-mn-2873-RMG

This Document relates to:  
ALL CASES

**CASE MANAGEMENT ORDER NO. 23**

**REGARDING FRAUDULENT TRANSFER CLAIMS DEADLINES**

The Court hereby issues the following Case Management Order to govern the deadlines regarding the fraudulent transfer claims only.

**A. Background:**

On November 30, 2021, the Court issued an Amended Scheduling Order Governing First Water Provider Bellwether Trial (“CMO 19-A”), *see* ECF 2011.

At the December 17, 2021 case management conference the parties raised a potential discovery dispute in which the Plaintiffs’ Executive Committee (“PEC”) sought from E. I. du Pont de Nemours and Company (“Historic DuPont”), The Chemours Company and The Chemours Company FC’s (together, “Chemours”) documents that were produced in an action that Chemours brought against Historic DuPont in Delaware Chancery Court that was referred to arbitration.

On December 17, 2021, the Court issued an Order requiring Historic DuPont and Chemours to produce non-privileged responsive documents and provide the PEC with a privilege log on or before January 24, 2022, and setting a timeline for the parties to exchange objections and responses to the privilege log, and for Plaintiffs to, if necessary, file a motion to compel on an expedited basis, *see* ECF 2057 (“December 17 Order”).

Chemours requested until February 7, 2022 to produce a partial privilege log and until the week of February 14, 2022 to produce its complete privilege log.

**B. Amended Deadlines:**

1. In order to accommodate the process and timing of the privilege log production, potential motion practice, and potential production and review of additional documents as a result of that process, the current deadlines for the completion of fact and expert discovery and motion practice, as set forth in CMO 19-A, solely as they relate to Plaintiffs' fraudulent transfer claims, are amended as follows:

	<b>Current Deadline</b>	<b>Amended Deadline – No Motion to Compel</b>	<b>Amended Deadline – Motion to Compel</b>
<b>Fact Discovery</b>	February 21, 2022	April 11, 2022	May 13, 2022 <sup>1</sup>
<b>Plaintiffs' Expert Disclosures</b>	March 17, 2022	April 28, 2022	June 2, 2022
<b>Defendants' Expert Disclosures</b>	April 28, 2022	June 9, 2022	July 14, 2022
<b>Rebuttal Expert Reports</b>	May 12, 2022	June 23, 2022	July 28, 2022
<b>Expert Discovery</b>	June 30, 2022	July 21, 2022	August 25, 2022
<b>Summary Judgment/<i>Daubert</i> Motions</b>	July 18, 2022	August 5, 2022	September 9, 2022
<b>Responses to Summary Judgment/<i>Daubert</i> Motions</b>	August 15, 2022	September 2, 2022	October 7, 2022

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<sup>1</sup> The Parties do not presently anticipate serving new discovery requests relating to the fraudulent transfer claims—other than deposition notices and subpoenas of witnesses that have already been identified—unless the need arises based on new information that is learned from deposition testimony or documents that are revealed as result of any successful motion practice to compel production of documents.

Historic DuPont and Chemours object to Plaintiffs serving any additional discovery as the time to do so has passed, and Historic DuPont and Chemours believe that additional time is only necessary to finish taking depositions of witnesses already noticed after the parties resolve issues over documents. But to avoid a dispute that may not be necessary, Historic DuPont and Chemours will raise any concerns with new discovery Plaintiffs serve at that time.

<b>Replies to Summary Judgment/<i>Daubert</i> Motions</b>	August 30, 2022	September 16, 2022	October 21, 2022
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2. CMO 19-A shall remain in full force and effect with respect to all claims and issues in the case other than the fraudulent transfer claims.

3. Neither Historic DuPont nor Chemours shall argue that a bellwether case should not be proposed as an initial trial case because any of the above deadlines have not yet been met.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

February 24, 2022  
Charleston, South Carolina