

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

<b>IN RE: PROCESSED EGG PRODUCTS</b>	:	
<b>ANTITRUST LITIGATION</b>	:	
	:	<b>MDL No. 2002</b>
	:	<b>08-md-02002</b>
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<b>THIS DOCUMENT APPLIES TO:</b>	:	
<b>ALL ACTIONS</b>	:	

**CASE MANAGEMENT ORDER NO. 18 (INITIAL DISCOVERY PLAN)**

**AND NOW**, this 25th day of April, 2012, upon consideration of the parties' joint and separate proposals regarding a discovery schedule in this multi-district litigation, including the Direct Purchaser Plaintiffs' unopposed March 29, 2012 request to partially lift the discovery stay to permit certain discovery, and upon consideration of other case management aspects of this litigation, it is hereby **ORDERED** as follows:

**I. PARTIAL LIFT OF DISCOVERY STAY**

- A. The stay of discovery as set forth in Case Management Order No. 1 at ¶ 8.B. (Doc. No. 3) is **LIFTED** with respect to conventional written discovery and document production. The stay of discovery shall remain in full force and effect with respect to oral or written depositions of parties, third parties, or non-parties.

**II. COORDINATION OF LITIGATION**

- A. All parties shall in good faith endeavor to coordinate discovery efforts among each other, and with parties in the Kansas state court litigation, in a manner consistent with the Orders of the Court.
- B. For purposes of this Order, the term "Defendant Group" refers to a Defendant or Defendants represented by the same counsel, with the exception of Defendants United Egg Producers, Inc. and United States Egg Marketers, Inc., which will each be considered a separate Defendant Group.
- C. The term "Plaintiff Group" refers to the three existing categories of Plaintiffs in this multi-district litigation—specifically, the Direct Purchaser Plaintiffs, the Indirect Purchaser Plaintiffs, and the Direct Action Plaintiffs.

D. Unless the parties otherwise stipulate with the Court's approval, or the Court otherwise orders:

1. Once any tag-along action is transferred to the Eastern District of Pennsylvania and included in these consolidated proceedings, both Plaintiffs and Defendants in such tag-along action are bound by this Order and all other Case Management Orders and must proceed with discovery pursuant to the procedures and time frames set forth in this Order.
2. Plaintiffs and Defendants in any action filed in the Eastern District of Pennsylvania and included in these consolidated proceedings are bound by this Order and must proceed with discovery pursuant to the procedures and timeframes set forth in this Order.

### III. FACT DISCOVERY

#### A. Initial Disclosures

The parties' waiver of further Rule 26 self-executing disclosures is **APPROVED** by the Court.

#### B. General Limitations

1. All discovery requests and responses are subject to the requirements of the Federal Rules of Civil Procedure and Local Rules of Civil Procedure, including, but not limited to, Fed. R. Civ. P. 26(b)(1), 26(b)(2), and 26(g).
2. Discovery shall not, without prior approval of the court, be taken of persons in countries outside the United States; and any request for such discovery shall indicate why the discovery is needed and the specific information or documents sought.

#### C. Discovery Period and Service of Discovery Documents

1. Fact discovery will commence upon entry of this Order.
2. Fact discovery will conclude on September 30, 2013.
3. Service of discovery requests by electronic means upon counsel for a named party shall constitute valid service pursuant to Fed. R. Civ. P. 5(b)(2)(E).

D. Requests for Production of Documents and Document Production

1. Objections and responses to requests for production that have been exchanged by the parties during the stay of discovery are due on May 18, 2012.
2. Existing document requests already served by or served on Direct Action Plaintiffs will be deemed served by and served on any additional Direct Action Plaintiffs that have filed suit since the requests were served or that subsequently file a suit consolidated or coordinated with this multi-district litigation.
3. Document production will commence after the applicable recipient parties serve written responses and objections to requests for production.
4. The parties will produce documents on a rolling basis.
5. Document production will be substantially completed by October 1, 2012.
6. Document production will be completed by December 31, 2012.
7. The parties shall use a Bates-numbering system, with separate pre-fixes denoting the producing party, for identifying each document produced or referred to during the course of this litigation. All copies of the same document produced by a given party should ordinarily be assigned the same identification number.
8. The production of electronically stored information shall be made consistent with the provisions of Case Management Order No. 6 (Doc. No. 27) (concerning electronic discovery) and Case Management Order No. 17 (Doc. No. 626) (concerning protocol for a Joint Document Depository). If requested by an opposing party after initial production, a reasonable number of Excel spreadsheets shall be produced in native format within fourteen (14) days of the request, absent unusual and unforeseen circumstances, or upon agreement of the parties or order of the Court.
9. As necessary, the parties shall produce privilege logs that contain the information called for by Federal Rule of Civil Procedure 26(b)(5)(A) on a rolling basis, within sixty (60) days of production of the group of documents from which the logged documents have been withheld, absent unusual and unforeseen circumstances, or unless the parties otherwise agree or the Court otherwise orders. Within the last six months of the fact discovery period, privilege logs should be provided on a rolling basis

within thirty (30) days of production of the group of documents from which the logged documents have been withheld, absent unusual and unforeseen circumstances, or unless the parties otherwise agree or the Court otherwise orders.

10. Documents that meet either of the following criteria need not be logged in any privilege log: (1) documents relating to the engagement of outside counsel for this litigation, or (2) documents that a party believes in good faith are subject to that party's claim of privilege of work-product protection and that are generated or dated after September 24, 2008. In the event that any party becomes aware of information reasonably suggesting that potentially privileged documents generated after September 24, 2008 may be relevant, the parties shall meet and confer with respect that issue.

E. Interrogatories

1. Each Plaintiff Group may serve no more than 10 interrogatories, including discrete subparts, upon each Defendant Group, unless otherwise agreed by the parties.
2. Defendants, collectively, may serve no more than 10 interrogatories, including discrete subparts, upon each Plaintiff Group, unless otherwise agreed by the parties.
3. The last day on which a party may serve interrogatories is 60 days prior to the close of fact discovery.

F. Discovery Disputes

1. All parties must attempt to resolve discovery disputes informally and in good faith before raising the dispute to the Court's attention. At minimum, disputing parties shall meet and confer in-person or by telephone as part of their informal resolution efforts. Any resulting resolution should be put in writing.
2. Discovery disputes shall be governed by the relevant statutes and rules of this Court, including, but not limited to, 28 U.S.C. § 1407(b), the Federal Rules of Civil Procedure, Local Rule of Civil Procedure 26.1, Judge Pratter's General Pretrial and Trial Procedures, and Case Management Order No. 12 (Doc. No. 62) (appointing Special Master Sandra A. Jeskie, Esquire, to evaluate and recommend resolutions to disputes involving electronic discovery).

3. All parties to this litigation shall present all discovery disputes between the parties and/or non-parties to the Court regardless of whether those discovery disputes otherwise could have been filed in a court outside the Eastern District of Pennsylvania.

4. The parties may not file a discovery motion with the Court in the absence of the Court's leave to do so.

In the event that the parties are unable to resolve a discovery dispute informally, the dispute shall be presented to the Court promptly, following the requisite meet and confer, by the aggrieved party in the form of a formal letter no more than two (2) pages in length, copying all parties to the dispute and Liaison Counsel. This letter shall:

- a. identify by name all parties involved in the dispute;
- b. define the issues in dispute in terms of specific deficiencies or objections;
- c. describe the nature of the relief sought;
- d. set forth the parties' positions on the matter; and
- e. describe the efforts to resolve the dispute informally.

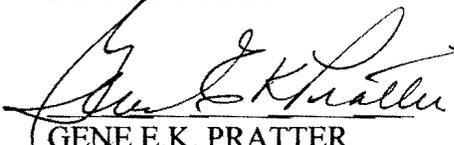
Only if materials or communications cannot be succinctly summarized in the letter and are integral to the dispute, then the aggrieved party may include such materials as exhibits to the letter. Following receipt of the letter, the Court will promptly schedule a telephone conference with the disputing parties, direct the parties to file a formal discovery motion, or take other action.

In the event that the Court permits a party to file a formal discovery motion, any briefs in support or opposition to such motion, shall not exceed seven (7) pages in length with conventional margins, spacing, and font, unless the Court instructs otherwise. No attachments, exhibits, or supplemental materials that might accompany the briefs may be used as a means of circumventing the page limit.

5. Any discovery disputes between the parties and non-parties that are filed, or reasonably anticipated to be filed, in a court outside the Eastern District of Pennsylvania, the party (or parties) to this litigation that is involved in that dispute shall promptly notify the Court by formal letter, copying all parties to the dispute and Liaison Counsel, and provide a copy of any materials that have been filed. That party (or parties) shall keep the Court promptly advised of all subsequent related proceedings by letter, copying all parties to the dispute and Liaison Counsel.

It is so **ORDERED**.

BY THE COURT:

  
GENE E.K. PRATTER  
United States District Judge