

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE: HAIR RELAXER MARKETING SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	MDL No. 3060 Case No. 23 C 818 Judge Mary M. Rowland This document relates to: All Cases
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**JOINT STATUS REPORT FOR THE
JANUARY 10, 2025 STATUS CONFERENCE**

Co-Lead Counsel for Plaintiffs and counsel for Defendants provide this joint status report in advance of the status conference scheduled for January 10, 2025.

I. **Status of Pending Briefs/Motions/Orders**

- a. **L’Oréal S.A.’s Motion to Dismiss:** On September 16, 2024, L’Oréal S.A. filed a motion to dismiss (*see* ECF No. 838). As discussed at the October 10, 2024 Case Management Conference and memorialized in the Court’s Minute Entry, the Court denied this motion without prejudice and ordered Plaintiffs to file an amended Complaint against L’Oréal S.A. Plaintiffs filed a Master Complaint against L’Oréal S.A. on October 18, 2024 (*see* ECF No. 899). L’Oréal S.A. filed its Motion to Dismiss on December 6, 2024 (*see* ECF No. 978). Pursuant to the Court’s December 16, 2024 Minute Entry (*see* ECF No. 989), Plaintiffs’ Response is due on January 24, 2025 and L’Oréal S.A.’s Reply is due on February 21, 2025.

- b. **Notice of Plaintiffs Ripe for Dismissal in Accordance with the Court’s Orders, Submitted November 11, 2024 (ECF No. 959) Following August Court Call Process:** In accordance with the procedures outlined in CMO 9, a Court Call Hearing was held in person and by video on August 29, 2024. At the Hearing, Defendants identified certain plaintiffs who failed to submit a Plaintiff Fact Sheet (“PFS”) and/or any Authorizations by their relevant deadlines, or who failed to respond to a Deficiency Letter, and sought dismissal of these cases. Some plaintiffs asked the Court for an extension of time to comply with these CMO 9 requirements. The Court granted the requested extensions and ordered those plaintiffs to submit a substantially complete PFS and other required materials by November 18, 2024, or have their cases dismissed without prejudice as of November 19, 2024. [ECF 824, 851] (the “Dismissal Order”).

On November 20, 2024, Defendants filed a Notice of Plaintiffs Ripe for Dismissal (the “Notice”) [ECF 959], providing the Court with a list of 138 Plaintiffs subject to the above-referenced Dismissal Order, who failed to submit a substantially

complete Plaintiff Fact Sheet, and other required materials, by November 18, 2024, pursuant to the Court's Order [ECF No. 851].

On November 21, 2024, the Court further ordered Plaintiffs subject to the Dismissal Order to file an objection, if any, to the entry of an order dismissing the cases listed in the notice by December 5, 2024. [ECF 960]. No Plaintiffs filed objections by the Court-ordered deadline. Therefore, Defendants respectfully request the Court enter the proposed Dismissal Order at ECF No. 959-1.

- c. **November Court Call List and Notice of Plaintiffs Ripe for Dismissal in Accordance with the Court's Orders, submitted December 20, 2024 (ECF No. 997)**: Similarly, the Court granted an extension and ordered certain plaintiffs on the November 13, 2024 Court Call List to submit a substantially complete PFS, required authorizations, and PFS-responsive documents, in compliance with CMO 9, by December 13, 2024, or be dismissed without prejudice. [ECF 948]. On December 20, 2024, Defendants filed an unopposed Notice of Plaintiffs Ripe for Dismissal [ECF 997]. Defendants provided the Court a list of 68 plaintiffs who failed to comply with that order and either failed to submit a PFS and at least one authorization or to otherwise respond to a Deficiency Letter since the hearing. Therefore, Defendants respectfully request the Court enter the proposed order provided at ECF No. 997-1. This list of Plaintiffs is based on the final jointly submitted November Court Call List, and corresponding order, that were submitted on November 20, 2024 to the Court's proposed orders email address and, to date, has not been entered by the Court.

II. **Case Management Report**

a. ***CMO 10 Compliance***

The Parties request that the Court enforce Amended CMO 10 compliance as to plaintiffs who are delinquent in providing the required personal identifying information to MDL Centrality. By way of reminder, the Parties negotiated, and the Court adopted, Amended CMO 10 on November 8, 2024 “[t]o assist in tracking Plaintiffs who may seek to refile their cases.” Amended CMO 10 requires Plaintiffs to provide certain identifying information to Third Party Vendor BrownGreer, which is hosting information regarding plaintiffs in this litigation through its platform, MDL Centrality. Specifically, “Plaintiffs who (a) were previously dismissed with the option of refiling their matter by a set date before the dismissal converts to a with-prejudice dismissal, (b) are dismissed pursuant to this Order, or (c) have currently pending cases are . . . to provide within fourteen (14) days of the entry of this Order, . . . (i) the Plaintiff’s full name (including middle name), (ii) Social Security Number, (iii) date of birth, and (iv) current home address.” (Dkt. 936, Sec. IV (emphasis added)).

Plaintiffs’ deadline to provide the required data to BrownGreer was November 22, 2024. Under Amended CMO 10, plaintiffs must provide (1) a valid Social Security Number, (2) a date of birth, (3) a home address, and (4) a full name, including middle name or initial. MDL Centrality Report 1237 downloaded on December 27, 2024 shows that only 3,007 plaintiffs have provided at least

the following three out of the four requirements under CMO 10: (1) a valid Social Security Number, (2) a date of birth, and (3) a home address. (This analysis does not consider middle name/initial). Defendants request that the Court set a new deadline for all plaintiffs to comply with Amended CMO 10 by January 24, 2025.

b. Report on Date of Diagnosis Compliance

On November 11, 2024, the Court entered an order requiring a subset of plaintiffs “to provide details regarding the injury they claim was caused by their use of Defendants’ hair relaxer products under Section V, Subsection A of the PFS. Though “the Court does not find failure to provide this information makes a PFS substantially incomplete,” the Court ruled that, in addition to describing the injury and symptoms, Plaintiffs are to provide date of diagnosis, healthcare provider information, and treatment details” “or the Court will strike this PFS responses.” (ECF 941 at 2.) The Court provided a date for plaintiffs subject to this order to comply with this requirement, but did not provide a deadline for all plaintiffs to provide this information. MDL Centrality Report 1208, downloaded December 27, 2024, shows that at least 527 Plaintiffs failed to provide a date of diagnosis or onset of each of their alleged injuries in Section V.A. of the PFS. *See* Exhibit A.

Therefore, the Parties request that the Court now set a deadline of February 28, 2025 (the existing PFS discovery deadline for plaintiffs with cases filed and served by February 1, 2024) by which these 527 plaintiffs must provide a date of diagnosis for each alleged injury provided in response to Section V.A of the PFS or have their PFS response struck in accordance with the November 11, 2024 Order.

c. Defendants’ Report on Outstanding PFS Deficiencies Leading Up to February 28, 2025 Plaintiff PFS Deadline

The Defendants are pleased to report that the January Court Call list contains fewer than 100 Plaintiffs. The January Court Call List was expected to be shorter because the Parties are utilizing this hearing to “clean up” from the docket certain outstanding issues from prior Court Call Orders and otherwise raising relatively noncontroversial and agreed upon issues. The January Court Call includes Plaintiffs who (a) failed entirely to serve PFSs and/or any authorizations and their deadline to cure these noticed delinquencies has passed; or (b) failed to respond to Defendants’ Deficiency Letters and their deadlines to do so have passed. Several of these Plaintiffs were previously identified as non-ovarian/uterine/endometrial cancer cases but Plaintiff’s counsel did not include those cases on the Parties list of non-cancer cases for dismissal that was submitted on December 9, 2024 (ECF No. 980).

Notwithstanding the anticipated smaller number of plaintiffs included in the January Court Call hearing, the Parties do not believe it is the start of a trend. The February hearing is expected to address hundreds of Plaintiffs whose PFSs are delinquent or deficient according to Defendants. Pursuant to the scheduling order entered on November 25, 2024 (ECF No. 962), the February Court Call hearing is scheduled for February 13 at 10:00 am, which is the same day as the February 13 Case Management Conference and the same time as the discovery hearing before Judge Jantz. The Parties propose resetting this hearing for the afternoon of Wednesday, February 12th to allow for enough time to address the Court Call List. As previously provided, the Parties request that the hearing be held in person with the option for Parties to attend remotely via Webex.

Looking ahead, the Parties anticipate that the April Court Call Hearing also will address hundreds of Plaintiffs, as Defendants expect to receive a large number of amended PFSs and document productions by or on the February 28, 2025 PFS discovery deadline for the cases filed and served by February 1, 2024, which Defendants will need to review and raise any concerns or disputes with the Court. Plaintiffs with outstanding or new deficiencies following that production likely will not be ripe for inclusion on a Court Call List until April.

d. Report on Dismissals/Docket Management

On November 19, 2024, the Court ordered the Parties to submit a Joint Status Report by January 15, 2025, stating whether the cases identified by the Court should be dismissed with prejudice, dismissed without prejudice, or whether another outcome is required. [ECF 957]. The Parties intend to comply with this order, which is expected to result in the dismissal of these cases. In total, over 2,700 plaintiffs have been, or will be, dismissed in this litigation based on orders issued to date through the CMO 9 Court Call Process, the Court's Order on Plaintiffs' Motion to Dismiss Noncancer Cases, and voluntary dismissals/stipulations. The Parties will be prepared to discuss further at the January 10, 2025 Case Management Conference, if necessary.

III. Pro Se Conference on February 12, 2025

On November 8, 2024, the Court entered CMO 13 [ECF 937] relating to the process by which Motions to Withdraw as Counsel are addressed by the Court in MDL 3060. The Court further ordered that any motions to withdraw as counsel submitted by December 5, 2024 would be considered at the first *Pro Se* Court Conference which is now being held on February 12, 2025. [ECF 938, 944, 1002]. There are currently 5 motions to withdraw subject to be heard at this conference: Matthews (1:23-cv-13623), Holman (1:23-cv-07267), Washington (1:23-cv-12489), Minor (1:24-cv-04981), Duncan (1:23-cv-14502).

Notably, on December 13, 2024, the Court entered a minute order stating that the motions to withdraw filed in the following cases would be addressed at the January 9 hearing: Laswell (1:23-cv-13570), Lopez (1:23-cv-13628), Jones (1:23-cv-13020), and Jones (1:23-cv-13161). After counsel filed their motions to withdraw, they filed stipulations of dismissal or notices of voluntary dismissals [1:23-cv-13570, 7; 1:23-cv-13628, 6; 1:23-cv-13161, 6; 1:23-cv-13020, 7]. In addition, these cases were subject to an order that dismissed these cases on July 17, 2024 [ECF 768]. Therefore, these matters have already been dismissed.

Counsel expect to discuss with the Court and resolve at the February 12 conference the various plaintiffs' counsel's Motions to Withdraw filed prior and subsequent to the entry of CMO 13. Defendants' *Pro Se* Liaison Counsel has resolved objections to the Motions filed after the entry of CMO 13 and is working to resolve issues, if any, as to Motions filed before the entry of CMO 13. To the extent there are any unresolved issues, Defense and Plaintiff *Pro Se* Liaison Counsel will be prepared to address them at the conference, if necessary.

IV. **Status of Deposition Protocol**

In accordance with the Court's Minute Order dated November 14, 2024 (*see* ECF No. 952), Plaintiffs provided Defendants with a response to Defendants' proposed protocol on December 9, 2024. The Plaintiffs received a response from the Defendants on December 30, 2024. No further negotiations occurred. The Parties intend to continue to meet and confer in an attempt to narrow the issues but now ask the Court for an order that addresses the two following issues:

- The Parties agree and ask the Court to set a deadline of January 17, 2025 to complete meet and confers and exchange a final list of disputed issues to be briefed; and,
- The Parties seek a Court order setting a briefing deadline to be discussed at the February status conference. The Parties disagree on a briefing schedule per below:
 - **Defendants' Position:** Given that all Parties are equally aware of the issues in dispute, the Parties should file simultaneous briefs on January 30, 2025 setting forth their position on disputed issues, which will allow for resolution by the February 13, 2025 status conference. Should the Court order staggered briefing per Plaintiffs' request, Defendants request an opportunity for a short reply brief if Plaintiffs raise new issues not previously discussed in the parties' meet and confers.
 - **Plaintiffs' Position:** Plaintiffs believe staggered briefing is appropriate here as the entry of a deposition protocol is advocated by the Defendants and Plaintiffs are content to allow the fact depositions to proceed without a protocol but in compliance with the Federal Rules of Civil Procedure. Plaintiffs therefore request that the Court enter the following deadlines to ensure that these issues are resolved before depositions commence in March 2025: Defendants to file opening brief setting forth their position on disputed issues – January 27, 2025 and Plaintiffs to file their brief in response to Defendants' proposal – February 7, 2025. This briefing schedule will allow the parties to provide the court with their positions in advance of the February 13, 2025 status conference.

V. **Bellwether-Related Issues**

a. Report on Defendants' Compliance with December 20, 2024 PFS Deficiency Review Deadline

The Court ordered the Parties to identify cases that were filed and served by February 1, 2024, served a PFS, but had not received a response from Defendants as to any PFS deficiencies. [ECF 979]. The Court further ordered Defendants to serve a response to at least 400 of those cases by December 20, 2024. [ECF 961, 979]. The Parties submitted a list of cases [ECF 968] and Defendants served Deficiency Letters (or, in the case of one plaintiff who submitted a blank PFS, a Warning Letter) for 404 of these plaintiffs by December 20, 2024, as instructed by the Court.

The Defendants are continuing to review the PFSs for the remaining Plaintiffs on this list. While the Court did not set a deadline by which the remaining 161 PFSs must be reviewed, Defendants

intend to complete their review of the PFSs in these cases by January 17, 2025, to give those plaintiffs more than 30 days to respond to deficiencies prior to the February 28, 2025 PFS deadline.

b. Defendants' Request for Court to Set Deadline of February 28, 2025 for Plaintiffs to Add Defendants to Their Short Form Complaint (for Cases Filed and Served by February 1, 2024)

Defendants' Position:

In an effort to prepare for the selection of bellwether cases, Defendants respectfully request that the Court order a deadline of February 28, 2025 for Plaintiffs who filed and served their cases by February 1, 2024 to amend their Short Form Complaints ("SFCs") to add defendants, if needed. After that date, Defendants will know in which cases they are named and not named, for purposes of bellwether selection. Defendants recognize that last-minute SFC amendments may disrupt the Parties' bellwether selection process, as Defendants will be unable to determine, with reasonable certainty, whether they are or will be named in an action that may be selected for ultimate trial. Defendants will have to make bellwether selections at some point in the near future. Not knowing in advance and with certainty, in which cases Defendants are named will create significant conflicts internally for the joint defense group as they attempt to make those selections together. Setting a firm deadline to add defendants to SFCs from the pool of eligible plaintiffs to be selected as bellwether cases sufficiently in advance of those selections will provide the Parties and the Court with some certainty on which they can rely when making bellwether selections. Defendants reserve the right to request a similar order as to other plaintiffs in the future.

Plaintiffs' Position:

The parties have met and conferred on this topic. After receiving the Defendants' recent request that all SFC be amended to include all appropriate Defendants, Plaintiffs agreed to the following:

- (1) that Plaintiffs who are eligible to be selected as bellwether cases be permitted to amend their complaints as of right to add or drop defendants;
- (2) that such amendments for bellwether eligible cases be made no later than fourteen (14) days prior to the date the Court orders selection of bellwether cases by the parties.

Applying this proposed compromise to the Plaintiffs' Bellwether proposal, all Plaintiffs whose PFS were substantially complete as of December 31, 2024 would be permitted as of right to amend their SFC to add new Defendants by February 14, 2025 (14 days in advance of the February 28, 2025 date for selection of bellwethers by the Parties).

c. The Parties' Briefing Report on the Bellwethers Process

In accordance with the Court's Minute Order dated November 14, 2024, the parties submitted a joint status report on the bellwether process on December 9, 2024 (*see* ECF No. 981). Following this submission, the parties were ordered to file supplemental briefing regarding the process to select the 16 cases subject to bellwether discovery and the timing to conduct bellwether discovery,

along with revised proposed CMOs (*see* ECF No. 986). The parties submitted their briefs and proposed CMOs on January 3, 2025 (*see* ECF Nos. 1005 and 1006) and will be prepared to discuss their respective positions with the Court at the January 10, 2025 case management conference.

VI. **“Second-Wave” Defendants**

a. **Status of Motions to Dismiss:**

- i. Advanced Beauty, Inc.: On July 12, 2024, Defendant Advanced Beauty, Inc. (“Advanced Beauty”) filed its Motion to Dismiss (*see* ECF Nos. 752 and 753). Plaintiffs filed their response on August 30, 2024 (*see* ECF No. 823). Advanced Beauty’s Reply was filed on September 30, 2024 (*see* ECF No. 862).
- ii. John Paul Mitchell: On July 12, 2024, Defendant John Paul Mitchell filed its Motion to Dismiss (*see* ECF No. 750). Plaintiffs filed their response on August 30, 2024 (*see* ECF No. 822). John Paul Mitchell’s Reply was filed on September 30, 2024 (*see* ECF No. 861).
- iii. Wella Operations US LLC: On July 12, 2024, Defendant Wella Operations US LLC (“Wella”) filed its Motion to Dismiss (*see* ECF Nos. 757-762). Plaintiffs filed their response on August 30, 2024 (*see* ECF No. 821). On October 9, 2024, Wella filed their Reply (*see* ECF No. 880).
- iv. Walgreen Co.: In accordance with the Court’s Minute Order dated August 29, 2024, on October 14, 2024, Walgreen Co. (“Walgreens”) filed a Motion to Dismiss the complaint filed by Plaintiff Evelyn L. Keating, as Personal Representative of the Estate of Elva Jean Keaton (*see* ECF No. 885-886, *see also* 1:24-cv-1467, ECF 24). Plaintiff’s response brief is due on January 10, 2025 and Walgreens reply brief is due February 3, 2025.

- b. **Discovery Status:** Plaintiffs have served an initial set of interrogatories and requests for production of documents, as well as a set of interrogatories related to ESI on defendants Advanced Beauty Systems, John Paul Mitchell, Murrays Worldwide, RNA, Roux Laboratories, and Wella Operations US LLC. Plaintiffs have not yet served additional sets of interrogatories and requests for production of documents.

On December 17, 2024, the Court held a hearing for all second wave defendants via WebEx. In accordance with the Court’s Minute Order issued after this hearing (*see* ECF No. 992), the parties will meet and confer regarding a proposed schedule for service of additional interrogatories and requests for production, along with a deadline for completion of written discovery and will submit their proposed schedule within fourteen (14) days of the Court’s Orders on the pending Motions to Dismiss.

- c. **Bronner Brothers, Inc.:** On July 11, 2024, this Court gave Bronner Brothers, Inc. a deadline of July 25, 2024, to file a status report indicating an email address where Plaintiffs could effectuate service pursuant to CMO 8 (*see* ECF No. 769). Fourteen cases have been filed against Bronner Brothers, Inc. A master long form complaint was filed against Bronner Brothers, Inc. by leadership on May 28, 2024 (*see* ECF No. 677). To date, Bronner Brothers, Inc. has not appeared and has failed to file an answer. Plaintiffs will be moving for default judgment in the individual cases naming Bronner Brothers, Inc. by January 24, 2025.

- d. **Roux:** Second wave defendant Roux Laboratories, Inc., (“Roux”) is currently a wholly-owned subsidiary of Revlon Consumer Products LLC. The issue of the application of Revlon, Inc., Revlon Consumer Products Corporation and Revlon Group Holdings LLC (collectively, "Revlon") discovery responses and production being equally applicable to and in lieu of discovery propounded upon second wave defendant Roux is presently before Special Master Grossman pursuant to a directive from Judge Jantz and has been briefed by the parties to the Special Master. By way of further background, Revlon sold its hair relaxer business to Beauty Care Professional Products Luxembourg, S.a.r.l. / The Colomer Group in 2000, including Roux, then re-acquired that line of business in 2013. Revlon maintains that it has in fact produced all Roux responsive materials in its possession.

Dated: January 7, 2025

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