

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

<b>IN RE: HAIR RELAXER MARKETING SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION</b>	<b>MDL No. 3060</b> Case No. 23 C 818 Judge Mary M. Rowland  <b>This document relates to:</b> All Cases
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**JOINT STATUS REPORT FOR THE  
FEBRUARY 13, 2025 STATUS CONFERENCE BEFORE  
THE HONORABLE MARY M. ROWLAND**

Co-Lead Counsel for Plaintiffs and counsel for Defendants provide this joint status report in advance of the status conference scheduled for February 13, 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 [ECF 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 [ECF 899]. L’Oréal S.A. filed its Motion to Dismiss on December 6, 2024 [ECF 978]. Pursuant to the Court’s December 16, 2024 Minute Entry [ECF 989], Plaintiffs filed their Response January 24, 2025 [ECF 1038]. L’Oréal S.A.’s Reply is due on February 21, 2025.
  
- b. **Dismissal Order regarding the Amended November Court Call List Schedules 1, 3, and 4 (proposed Order submitted November 20, 2024):** In accordance with Case Management Order 9 (Dkt. 343), the Parties submitted to the Court the November Court Call List, which identifies plaintiffs for whom Defendants sought relief for alleged violations of their discovery obligations under CMO 9 and Plaintiffs’ responses to Defendants’ assertions. A hearing on the November Court Call List was held on November 13, 2024 in person and by video (“November Court Call Hearing”). In accordance with orders issued during the hearing, the Court issued Minute Entry Order 948. Pursuant to Minute Entry Order 948, the Parties jointly submitted via the Court’s email address, a proposed order and related exhibits: (i) Amended November Court Call List (both in PDF and Excel for convenience); (ii) Proposed Order reflecting the Court’s rulings at ECF 948; and (iii) the November Court Call List Order Appendices (A-F). The Proposed Order remains pending.

- c. **NIH Motion to Compel**: On January 24, 2025, Revlon filed a motion to compel the production of documents from the National Institutes of Health (see ECF No. 1034). A briefing schedule has not yet been set.

II. **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 scheduled for February 12, 2025. [ECFs 938, 944, 1002]. There are currently 16 motions to withdraw subject to be heard at this conference: 1:23-cv-13623: Matthews v. L'Oreal USA Inc. et al.; 1:23-cv-07267: Holman v. L'Oreal USA, Inc. et al.; 1:23-cv-14466: Deans v. Namaste Laboratories, LLC. et al.; 1:23-cv-1450: Duncan et al v. L Oreal USA Products, Inc. et al.; 1:24-cv-01982: Garner v. L'Oreal USA, Inc. et al.; 1:24-cv-02181: Rivera v. AFAM Concept, Inc. et al.; 1:23-cv-14523: Collins v. L'Oreal USA, Inc. et al.; 1:23-cv-08003: Stingley v. AFAM Concept, Inc. d/b/a JF Labs, Inc. et al.; 1:24-cv-01853: Breckenridge v. L'Oreal USA, Inc. et al.; 1:23-cv-09700: Purnell et al v. AFAM Concept Inc. dba JF Labs Inc. et al.; 1:23-cv-13017: Rismay v. L Oreal USA, Inc. et al.; 1:23-cv-14614: Roberts v. Beauty Bell Enterprises LLC et al.; 1:23-cv-14636: Sloan v. AFAM Concept Inc. et al.; 1:23-cv-11985: Johnson et al v. Namaste Laboratories, LLC. et al.; 1:23-cv-03915: Perry v. L'Oreal USA Inc. et al.; 1:23-cv-09721: Sims v. Beauty Bell Enterprises LLC f/k/a House of Cheatham, Inc et al. 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.

As a reminder to the Court, two cases that were listed as having pending Motions to Withdraw listed on Document # 1029-1,11:23-cv—11377: Puckett v, Revlon, Inc. et al. and 1:24-cv-01903: Baldwin v. L'Oreal USA, Inc. et al., have previously been dismissed by the court.

III. **Status of Settlement Mediator/Special Master Proposal**

As discussed at the January 10, 2025 Case Management Conference and memorialized in the Court's Minute Entry [ECF 1019], the parties provide the following update regarding settlement:

**PSC Position:** While the PSC is prepared to identify and propose several nationally recognized and well-respected Settlement Mediators and/or Special Masters in response to the Court's directive, we are also prepared to adopt the Defendants' schedule to have agreed to mediators to the Court in the March 20, 2025 Joint Status Report.

The PSC does not agree with the Defendants' proposal that a process for the mediation and the parties' respective submission be decided now. It is wholly premature to dictate now how a given mediator might want to receive the parties' factual underlying positions statements, if at all, and whether they are submitted "For Mediator's Eyes Only" or in some other fashion. Mediators have different preferences on the best way to proceed, and this process should be determined with the input of the chosen Settlement Mediator and/or Special Master, rather than what appears to be a litigation-based demand.

The PSC looks forward to working amicably with Defendants through both the selection of a Settlement Mediator and/or Special Master, whatever process that person (and team) develops to begin preliminary discussions and ultimately through potential resolution of this MDL.

**Defendants' Position:** Pursuant to the Court's Minute Entry of January 10, 2025 instructing the parties to "provide the Court with a proposal regarding settlement (names of trusted mediators and/or process) in the next joint status report" (ECF No. 1019), Defendants propose a process whereby the parties agree that within 15-days of the selection of a neutral or neutrals, Plaintiffs provide Defendants with their theory of the case as to each particular Defendant's liability. Thirty days thereafter, Defendants will provide a response to Plaintiffs' statement. This exchange will be subject to the protections of Federal Rule of Evidence 408, and/or any related privileges, and by agreement not used in the litigation. Without this basic information regarding Plaintiffs' theory, including, for instance, how the challenged products caused Plaintiffs' alleged injuries, Defendants cannot meaningfully participate in mediation or other settlement efforts. With respect to the selection of neutral or neutrals, Defendants propose that the parties begin meet and confer discussions regarding potential mediators by March 3, 2025, through the exchange of at least three (3) candidates at least two (2) of which would be agreed to by each Plaintiff or Defendant (i.e., not every Plaintiff or Defendant would agree to all three, but would agree to at least two of the three proposed by their side). The parties shall then present their agreed-upon neutrals(s) to the Court in advance of the March 27, 2025 Case Management Conference.

IV. **Bellwether-Related Issues**

As discussed at the January 10, 2025 Case Management Conference and at the hearing held on January 31, 2025 and memorialized in the Court's Orders [ECF 1019 and 1052], the parties have met and conferred on the issue of *Lexecon* waivers on February 4, 2025. However, Defendants inadvertently provided their proposal regarding *Lexecon* or the use of strikes during the bellwether case selection process on the afternoon of Thursday, February 6, 2025. The PSC is considering the proposal, but it may not be possible to respond before the joint status report is due by noon on Friday, February 7, 2025. The parties will still

endeavor to submit the status report timely, which may include a joint agreement or the parties' positions if they are unable to reach an agreement.

Proposed Case Management Order:

Additionally, in accordance with the Court's January 31, 2025 Order [ECF 1052], the parties will file a joint proposed Case Management Order incorporating the Court's rulings on or before February 21, 2025. The parties will be prepared to discuss further at the February 13, 2025 Case Management Conference, if necessary.

V. **Case Management Report**

a. **Amended CMO 10 Compliance (January 24, 2025 deadline to comply)**

The Court set a deadline of November 22, 2024 for identified plaintiffs to come into compliance with Amended CMO 10 to submit (i) the Plaintiff's full name (ii) Social Security Number, (iii) date of birth, and (iv) current home address. [ECF 936]. The Court then set a second deadline of January 24, 2025 for Plaintiffs who had not complied. [ECF 1013]. A number of Plaintiffs have not provided the required information pursuant to the Court's orders. As the Court recognizes, this identifying information is vital "[t]o assist in tracking Plaintiffs who may seek to refile their cases." Amended CMO 10.

Given the amount of time Defendants and Plaintiffs' Leadership have had to spend corraling plaintiffs to comply with the Court's order, the Parties agree that further Court intervention is necessary. The Parties met and conferred in an effort to identify an appropriate remedy and asked BrownGreer to conduct additional outreach to counsel for plaintiffs who have not provided the required information pursuant to this Court's orders. BrownGreer will then provide collected data to the Parties and the Parties intend to submit to the Court a proposed order to show cause to be entered against those who remain out of compliance. The proposed order is expected to be submitted before the March Joint Status Report. Alternatively, the Parties respectfully defer to the Court on a different approach. The Parties will be prepared to discuss this issue with the Court at the status conference, if needed.

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 [ECF 752 and 753]. Plaintiffs filed their response on August 30, 2024 [ECF 823]. Advanced Beauty's Reply was filed on September 30, 2024 [ECF 862].

- ii. John Paul Mitchell: On July 12, 2024, Defendant John Paul Mitchell filed its Motion to Dismiss [ECF 750]. Plaintiffs filed their response on August 30, 2024 [ECF 822]. John Paul Mitchell's Reply was filed on September 30, 2024 [ECF 861].
  - iii. Wella Operations US LLC: On July 12, 2024, Defendant Wella Operations US LLC ("Wella") filed its Motion to Dismiss [ECFs 757-762]. Plaintiffs filed their response on August 30, 2024 [ECF No. 821]. On October 9, 2024, Wella filed their Reply [ECF 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. Keaton, as Personal Representative of the Estate of Elva Jean Keaton [ECFs 885-886, *see also* 1:24-cv-1467, ECF 24]. Plaintiff filed her Opposition 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 [ECF 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 [ECF 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 [ECF 677]. Bronner Brothers, Inc. has contacted Plaintiffs' counsel and have requested an extension to file responsive documents.
- 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.

VII. **State Court Update**

**Illinois State Cases:** There are at least 287 cases pending in Cook County, Illinois. These cases have been consolidated for pretrial purposes. The cases were pending for pre-trial before Judge Patrick Stanton, but he has been reassigned and the parties are waiting on assignment of a new judge. The cases are also being directed by the presiding judge of the Law Division, Judge Kathy Flanagan. On January 8, 2025, Judge Flanagan set four trial dates for the consolidated hair relaxer cases. Pursuant to Judge Flanagan's Order, the parties are to select twenty cases that will be separated into 4 cohorts of 5 cases that will be tried together at 4 separate cohort trials. The trials are set to begin November 3, 2025, January 20, 2026, March 23, 2026, and May 18, 2026. The plaintiffs for each trial setting are currently unknown. The parties are to return March 18, 2025 for status and to address outstanding motions and cohort selection.

Additionally, there is currently one case pending in St. Claire County that was only recently filed.

**Georgia State Cases:** There are at least three hundred and twenty-five (325) cases pending in Chatham County, Georgia. These cases have been consolidated for pretrial purposes before Judge Derek J. White. On June 21, 2024, the Georgia Court of Appeals issued its opinion in *Burroughs v. L'Oreal USA, Inc.*, Case No. STCV2201876, holding that plaintiff's strict liability claims were barred because plaintiff's first use of the alleged products occurred prior to the ten-year statute of repose period. On December 10, 2024, the Georgia Supreme Court granted certiorari on the following issue: "In a tort action alleging an injury caused by the use of multiple units of a consumable product over time, when is the 'first sale for use or consumption of the personal property causing or otherwise bringing about the injury,' at which point the statute of repose begins to run? See O.C.G.A. § 51-1-11(b)(2)." Plaintiff filed her opening brief on January 23, 2025, and oral argument is expected to occur in May 2025. The consolidated matters are stayed, as the trial court is lacking jurisdiction over the same pending resolution of this appeal.

There are also at least 147 cases pending in DeKalb County, Georgia. These cases are in the process of being consolidated for pretrial purposes before Judge Alvin T. Wong. On January 17, 2025, the parties had their first status conference before Judge Wong, during which time the Court indicated that its preference would be to address general causation early on. The Court ordered the parties to meet and confer and submit a stipulation or proposals concerning a master complaint and short form

complaint procedure, discovery and Defendants’ production of MDL discovery, and a general case schedule. This submission is due on or before March 6, 2025, when the parties are next scheduled to appear before the Court.

**Other State Court Cases:** There are additional cases pending, in smaller numbers, in Pennsylvania, Delaware, New York, and California.

**Dated: February 6, 2025**

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