UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: HAIR RELAXER MARKETING SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	)	MDL No. 3060
	)	
	)	No. 23-cv-00818
	)	
	)	District Judge Mary M. Rowland
	)	
	)	Magistrate Judge Beth W. Jantz

ORDER

The Court held a status hearing on discovery on 3/27/25. As an initial matter, the Court notes that the joint status report due in advance of the 4/24/25 status hearing shall be filed by 4/17/25. At the status hearing on 3/27/25, the Court discussed the issues raised by the parties in the joint status report filed on 3/20/25 (Dkt. 1142), and now summarizes the status hearing with due dates, deadlines, and rulings, as noted in the full text of this Order.

I. Multiple Rule 30(b)(6) Notices

As an initial matter, nothing in this Order should be construed as applying retroactively to any Rule 30(b)(6) deposition notices that have already been served prior to the 3/20/25 JSR; those depositions should proceed as scheduled, provided that the parties have agreed on the relevant topics and identified the appropriate witness(es). The Court will not limit Plaintiffs to one Rule 30(b)(6) notice per Defendant. While the Court recognizes that some Courts have held that only one Rule 30(b)(6) notice may be issued without leave of Court, (*see* dkt. 1142 at 4-5), the Court believes that the nature of this suit and discovery in this matter may require Plaintiffs to take more than one Rule 30(b)(6) deposition for some Defendants. Moreover, no party was able to point the Court to any other MDL in which a party was so limited. Therefore, the Court hereby grants leave for Plaintiffs to serve multiple Rule 30(b)(6) deposition notices in this case. As noted in open

court, all parties agree that each witness made available for a Rule 30(b)(6) deposition may testify for seven hours, as required by the Federal Rules of Civil Procedure, and the Court encourages the parties to meet and confer where/if particular witnesses may need to testify for longer durations. However, nothing in this Order should be construed as limiting Defendants from arguing if they have a good faith basis to do so that particular deposition notices or the topics contained therein are overbroad, irrelevant, unduly burdensome, or satisfy any of the criteria for a protective order, in compliance with the meet and confer timeline in the deposition protocol.

II. Requests for Admission

As discussed in open court, the Court finds that the Requests for Admission served by Plaintiffs on Avlon and any other Defendants were timely, as fact discovery remains ongoing. Additionally, the Court believes Requests for Admission may be useful in honing the facts for trial. Again, nothing in this Order will prevent a Defendant from arguing following a meet and confer process that specific Requests for Admission are improper or unduly burdensome, but any Requests for Admission served within the fact discovery period will be considered timely. For any Requests for Admission that had already been served prior to the 3/27/25 status hearing, their 30 days to respond runs from the date of the hearing as they needed to wait on this Court's ruling during that hearing.

III. Foreign Regulatory Materials

The parties had raised in their JSR certain issues related to production of documents in the possession of consultants and/or vendors. In particular, Plaintiffs were concerned about House of Cheatham's production of documents possessed by a Belgian company Biorius, which House of Cheatham engaged to assist with European Union ("EU") regulatory matters. As stated at the hearing, the Court generally considers documents possessed by consultants and vendors hired by

Defendants to be in the "control" of Defendants, with certain fact-specific exceptions where appropriate. According to House of Cheatham, it is not withholding any documents on the basis that they are not in its control, and are working with Biorius to ensure that document production is complete. The parties' meet and confer on this issue is to conclude by 4/4/25, and any further production is to be completed by 4/14/25.

At the 3/27/25 hearing, Plaintiffs raised another issue relating to the universe of foreign regulatory materials that Defendants are required to produce, pursuant to Judge Rowland's previous orders. (Dkt 353, 595.) Plaintiffs seek three categories of information: (1) "dossiers" that EU regulators require companies to keep on their hair products, (2) documents submitted through a certain portal for EU regulatory compliance, and (3) adverse experience reports that Defendants received and reported to EU regulators. The Court will rule on this issue in a separate Order.

IV. Avlon Industries, Inc.

The Court has considered the parties' respective arguments, and Defendant Avlon Industries is to perform searches of Slack, Dropbox, and Basecamp to ensure that its document production is complete. The Court understands that Avlon does not believe that these searches will turn up non-cumulative, non-duplicative materials, but Plaintiffs have identified sufficient materials from the current document production to suggest that these programs may house further responsive materials. The parties are to meet and confer about a timeline regarding this production and provide updated status in the 4/17/25 JSR. If the parties cannot work out their differences on this issue, the issue will be referred to Special Master Grossman for the parties to continue their work with her.

Regarding materials stored on local hard drives by Avlon employees, Avlon has stated that it believes that all such drives were automatically backed up onto company network drives and thus should have been included in their custodial searches. The parties are to meet and confer with their IT professionals to determine whether any additional searches are necessary, in advance of the 4/17/24 JSR.

Finally, as to the personal emails of Avlon employees, those accounts likely should be searched if the relevant individual is still employed with Avlon and there is evidence that the person used their personal email address to perform company business. The parties will continue to meet and confer on this issue and present an updated status in the 4/17/25 JSR.

V. Beauty Bell Enterprises and House of Cheatham, LLC

The parties report that the hard copy documents from Iron Mountain will be made available for inspection on April 9 or 10. House of Cheatham has further stated that it will respond to the interrogatory deficiencies identified by Plaintiffs by 4/1/25. On the custodial files, the parties have agreed to search seven custodians, but cannot agree on the end date for that search. As this Court has previously held, custodial document production searches are to run through 12/31/22, but that "if there were certain tranches of documents that Plaintiffs believed would be relevant and not unduly burdensome to produce that were created after Plaintiffs initiated litigation, the parties could meet and confer about producing such targeted documents." (Dkt. 1000 at 4.) Here, the Court does not believe that Plaintiffs have adequately demonstrated why the new custodians require a search that goes until the present date, and the Court finds that requiring Defendants to make such an extended search for seven custodians at this late date in written discovery would be unduly burdensome. Therefore, the Court rules that the searches for the newly identified custodians need only go through 12/31/22.

VI. L'Oreal USA

The Court refers to Special Master Grossman the issues related to production of custodial files identified in the 3/20/25 JSR. (*See* dkt. 1142 at 17-18.) On the issue of foreign regulatory materials, the Court reserves ruling on this issue until a separate Order, as above.

The parties continue to meet and confer on purported interrogatory deficiencies and report that they are making progress. The parties will report further on this issue in the forthcoming 4/17/25 JSR.

On the metadata problems alleged by Plaintiffs, L'Oreal has agreed to produce an "overlay" to Plaintiffs. The parties are to meet and confer on the scope of the overlay, with their e-discovery professionals present at the conference, by 4/7/25. L'Oreal USA is further ordered to produce the overlay to Plaintiffs within 10 days of agreeing on the scope. If the parties are unable to resolve issues relating to metadata or L'Oreal USA's overlay, any disputes related to this issue are also referred to Special Master Grossman.

VII. Luster Products, Inc.

Luster has agreed to cure by 4/7/25 certain ESI deficiencies identified by Plaintiffs, and produce a Rule 30(b)(6) witness on organization structure and document collection/production within 45 days. The parties shall report on the status of these efforts in the 4/17/25 JSR.

VIII. McBride Research Labs, Inc.

There were no issues that required court intervention at the hearing between Plaintiffs and McBride.

IX. Namasté Laboratories, LLC

Namasté issued a letter responding to purported interrogatory deficiencies on 3/31/25, and the parties continue to meet and confer to resolve those issues. Any such meet and confer efforts must

be completed by noon on 4/14/25 to allow sufficient time to present any outstanding issues in the 4/17/25 JSR. The parties report that they have resolved the custodial production issues identified in the 3/20/25 JSR.

X. Revlon

As discussed in open court, Plaintiffs and Revlon shall proceed with the Rule 30(b)(6) deposition on the topics related to product identification already agreed on by the parties, by no later than the first half of May. In accordance with the Court's ruling above, Plaintiffs will not be required to ask all potentially relevant questions of the witness (Mr. Shelley) for all 30(b)(6) topics, and Mr. Shelley may need to sit for an additional deposition if he is the appropriate witness on subsequent 30(b)(6) topics later identified by Plaintiffs during discovery.

On the metadata issues raised in the JSR, the parties believe they can resolve those problems through continued meet and confer efforts. The parties also continue to meet and confer on purported interrogatory deficiencies, and Revlon will respond to Plaintiffs by 4/7/25. On the Attorney's Eyes Only ("AEO") issue related to the Rule 30(b)(6) deposition, the parties are ordered to continue to meet and confer.

All meet and confers for any of the foregoing outstanding issues as between Plaintiffs and Revlon must be completed by noon on 4/14/25. If the parties are still at impasse on the AEO issue, the parties are to attach to the 4/17/25 JSR a few relevant examples that contain the purportedly protected information so that it can better understand the nature of the dispute.

XI. Sally Beauty Supply LLC

Sally Beauty and Plaintiffs continue to meet and confer on the production of newly identified custodians' files, identified in the 3/20/25 JSR. These meet and confer efforts are to conclude by 4/10/24, and the parties may present any remaining disputes in the 4/17/25 JSR.

XII. Strength of Nature LLC

Strength of Nature and Plaintiffs continue to meet and confer on issues related to additional custodians and searching employees' personal emails. The parties are to meet and confer on those issues, as well as any other relevant issues from Strength of Nature's discovery letters served on 3/13/25 and 3/21/25, as discussed at the status hearing. Those conferences must conclude by 4/8/25, and any outstanding issues should be presented in the 4/17/25 JSR.

XIII. Class Discovery Status

The parties provided the Court with an update on the status of fact discovery as it relates to the class claims. As the Court noted, discovery responses that admit a lack of memory or recollection are adequate, particularly given that many of the Plaintiffs used the relevant hair care products over the course of decades in some instances. On the other hand, "privacy" is not a proper objection to discovery requests; such responses and objections must focus on relevancy and any privileges.

The parties remain at impasse regarding the relevance of certain medical records in a putative medical monitoring class action. The parties are to meet and confer to attempt to narrow the remaining disputes, including the sharing of any relevant case law that they believe supports their respective positions. Those meet and confer efforts must conclude by 4/10/25, and the parties must review together the relevant discovery requests one-by-one in an effort to really drill down into what may remain in dispute. For requests for production not in dispute, Plaintiffs shall produce relevant documents within 30 days of the 3/27/25 hearing.

E N T E R:

Dated: 4/11/25

BETH W. JANTZ
United States Magistrate Judge