



U.S. Department of Justice

Antitrust Division

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October 30, 2015

Via ECF

The Honorable James Orenstein
U.S. Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: In re Parking Heaters Antitrust Litigation
No. 15-MC-940 (JG) (JO)

Dear Judge Orenstein:

We are attorneys with the Antitrust Division of the United States Department of Justice, which is currently leading a criminal investigation into antitrust violations in the parking heaters industry. The complaints filed in the above-referenced case allege that the Defendants engaged in a civil antitrust conspiracy in the same industry during the same time period. From time to time, we have communicated with counsel for the Plaintiffs and Defendants to ensure that any discovery in the above-referenced civil matter does not adversely affect the progress of our criminal investigation.

It has recently come to our attention that on Wednesday evening, the parties jointly filed a Proposed Case Management Order ("CMO," Docket #70) with this Court. The first numbered paragraph of the CMO states that, within 21 days of Your Honor's entry of the CMO, Defendants "shall produce to Plaintiffs documents for the period October 1, 2007 to December 31, 2014 relating to the above-captioned matter as agreed to by the Parties." Upon discussing with counsel for Plaintiffs and Defendants the identity of the documents whose production has been "agreed to by the Parties," we are concerned that such discovery would indeed adversely affect the progress of our criminal investigation. We hope to avoid seeking to intervene in this matter in order to move for a stay of all discovery, and we believe it still may be possible for the parties to engage in early document discovery without prejudicing the criminal investigation. However, we have been informed by the parties that they have been unable to come to any agreement on any early document discovery other than as set forth in the proposed CMO.

We respectfully request an opportunity to be heard on this issue *in camera* or by letter to the Court filed under seal, prior to the Court's entering the CMO. In order to explain how the discovery sought by the parties may adversely affect our criminal investigation, we will be required to reveal information about that investigation.

Sincerely,

A handwritten signature in cursive script that reads "Carrie A. Syme".

Carrie A. Syme
Trial Attorney
Antitrust Division, NY Office

cc:

Co-Lead Counsel for Plaintiffs (Bonny Sweeney, Hausfeld LLP)
Co-Lead Counsel for Plaintiffs (Debra Josephson, Roberts Law Firm, P.A.)
Counsel for the Espar Defendants (Michael Tubach, O'Melveny & Myers LLP)
Counsel for the Webasto Defendants (Clay Everett, Morgan, Lewis & Bockius LLP)