

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE ESPAR ANTITRUST LITIGATION

No. 15-MC-940 (JG) (JO)

This Document Relates to:

All Cases

JOINT STATUS REPORT

Pursuant to the Court's June 5, 2015 Order, the undersigned hereby submit this Joint Status Report.

I. Cases Pending and Consolidated for Purposes of Pre-trial Discovery

The following related cases have been filed and, pursuant to the Court's May 27, 2015 Order,¹ are consolidated for pre-trial discovery in the above-captioned matter:

A. Direct Purchaser Actions

- *Triple Cities Acquisition LLC v. Espar, Inc. and Espar Products Inc.*, No. 15-cv-1343 (“*Triple Cities*”);
- *National Trucking Reclamation Financial Services v. Espar, Inc., Espar North America, Inc. and Espar Products Inc.*, No. 15-cv-2310 (“*National Trucking*”);
- *Trailer Craft Inc. v. Espar, Inc., Espar Products, Inc., Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-2411 (“*Trailer Craft*”);
- *Guay Brothers Co. v. Espar, Inc., Espar Products Inc., John E. Bishop, Volker Hohensee, Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-3225 (“*Guay Brothers*”);
- *Myers Equipment Corp. v. Espar, Inc., Espar Products Inc., Webasto Products North America, Inc. and Webasto Thermo & Comfort North America, Inc.*, No. 15-cv-3872 (“*Myers Equipment*”); and
- *Advance Diesel Service v. Espar Inc., Espar Products, Inc., Webasto Products North America, Inc., Webasto Thermo & Comfort North America, Inc., Marine Canada Acquisition Inc.* (“*Advance Diesel*”) *d/b/a/ Seastar Solutions, Probeat Mechanical Systems Inc., and Probeat Canada*, No. 15-cv-04350 (“*Advanced Diesel*”).

¹ ECF No. 28, *Raccoon Valley*, No. 15-cv-1338; ECF No. 28, *Triple Cities*, No. 15-cv-1343; ECF No. 24, *Regional International*, No. 15-cv-1798; ECF No. 19, *National Trucking*, No. 15-cv-2310; ECF No. 19, *Trailer Craft*, No. 15-cv-2411; and *Advance Diesel*, No. 15-cv-04350.

B. Indirect Purchaser Actions

- *Raccoon Valley Transport, Inc. and Audrius Labaciauskas v. Espar, Inc.*, No. 15-cv-1338 (“*Raccoon Valley*”);
- *Regional International Corp. and Mead’s Automotive v. Espar, Inc.*, No. 15-cv-1798 (“*Regional International*”);
- *Davidson Transfer, LLC v. Espar, Inc. and Espar Products, Inc.*, No. 15-cv-3005 (“*Davidson*”);
- *Thomas Johnson and Jim Steger v. Espar, Inc.*, No. 15-cv-3174; and
- *North Jersey Truck Ctr., Inc. v. Espar, Inc. and Espar Products, Inc.*, No. 15-cv-3290 (“*North Jersey Truck*”).

Defendants named in one or more of these actions include Espar, Inc., Espar Products Inc., Espar North America, Inc. (collectively, “the Espar Defendants”), Webasto Products North America, Inc., Webasto Thermo & Comfort North America, Inc. (collectively, “the Webasto Defendants”), former Espar executives Volker Hohensee and John E. Bishop, Marine Canada Acquisition Inc. d/b/a/ Seastar Solutions, Proheat Mechanical Systems Inc., and Proheat Canada.²

II. Leadership Motions

Competing motions and proposals for leadership appointments and leadership structure in both the IPP and DPP Actions are pending.³

² Complaints naming Espar entities only include: *Raccoon Valley*, *Regional International Corp.*, *Davidson Transfer, LLC*, *Johnson*, *North Jersey Truck Center*, *Triple Cities Acquisition*, and *National Trucking Reclamation Services*. Complaints naming Webasto entities, in addition to Espar entities, include: *Trailer Craft, Inc.*, *Guay Brothers*, *Myers Equipment Corporation* and *Advance Diesel Services*. In addition to Webasto and Espar entities, *Guay Brothers* named the two former Espar executives and *Advance Diesel* named the Proheat entities and Marine Canada Acquisition Inc.

³ Motions or proposals regarding the DPP leadership structure are:

Mot. to Appoint Counsel, *Triple Cities*, No. 15-cv-1343 (E.D.N.Y. Apr. 22, 2015) (ECF No. 14) (seeking appointment of Hausfeld LLP as interim lead counsel); Mot. for Appointment of Interim Lead Counsel for DPPs, *Trailer Craft Inc.*, No. 15-cv-2411 (E.D.N.Y. May 18, 2015) (ECF No. 9) (seeking appointment of Cera LLP as interim lead counsel and Klafter Olsen and Lesser LLP as liaison counsel); Mot. to Consolidate and for Appointment of Counsel, *National Trucking*, No. 15-cv-2310 (E.D.N.Y. Apr. 28, 2015) (ECF No. 10) (seeking appointment of Roberts Law Firm as interim lead counsel); Mot. to Appoint Counsel Kaplan Fox & Kilsheimer LLP Interim Class Counsel for the Proposed Direct Purchaser Class, No. 15-mc-940 (E.D.N.Y. June 12, 2015) (ECF

III. Status Conferences

Certain Parties have previously proposed that the Court hold quarterly status conferences commencing with the August 7, 2015 status conference. *See* ECF No. 6 (Joint Report of Certain Indirect Purchasers Counsel), ECF No. 8 (Status Report by Triple Cities).

No. 25) (seeking appointment of Kaplan Fox as lead or co-lead counsel); Status Report submitted by Triple Cities, No. 15-mc-940 (E.D.N.Y. June 5, 2015) (ECF No. 8) (noting amenability to an executive committee if a chair is appointed with certain enumerated responsibilities); Letter from Kaplan Fox, Cera LLP and the Roberts Law Firm to Hon. James Orenstein, No. 15-mc-940 (E.D.N.Y. June 5, 2015) (ECF No. 9) (proposing a four member DPP executive committee, noting unresolved issues related to chair of committee); Letter (Supplemental) in Supp. of Appointment of Hausfeld LLP & Roberts Law Firm as Co-Lead Counsel, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 28) (proposing two-firm co-lead structure with Hausfeld LLP and Roberts Law as co-leads); Letter to Hon. James Orenstein pursuant to Order of June 9, 2015, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 30) (proposing four-firm executive committee chaired by Cera LLP, Kaplan Fox, or Hausfeld LLP); Mot. to Appear by Telephone and letter to Hon. James Orenstein by Myers Equipment Corp., No. 15-mc-940 (E.D.N.Y. July 7, 2015) (ECF No. 35) (supporting two-firm co-lead structure proposed by Hausfeld LLP and Roberts Law, or, if the court appoints an executive committee, membership on that committee).

Motions or proposals regarding the IPP leadership structure are:

Pls.' Mot. to Appoint Steve W. Berman as Interim Lead Class Counsel for IPPs (ECF No. 17), *Raccoon Valley*, No. 15-cv-1338 (E.D.N.Y. Apr. 15, 2015) (seeking appointment of Steve Berman and Hagens Berman Sobol Shapiro LLP as sole lead counsel for IPPs); Pls. Regional International Corp. and Mead's Automotive, LLC's Mot. Re: Appointment of Interim Co-Lead Class counsel for Indirect Purchaser Plaintiffs, *Regional International*, No. 15-cv-1798 (E.D.N.Y. Apr. 15, 2015) (ECF No. 17) (seeking appointment of Law Offices of Francis Scarpulla and Cooper & Kirkham, P.C. as interim co-lead counsel for IPPs); Mot. to Appoint Counsel: Joint Letter of Certain Indirect Purchaser Counsel Pursuant to Order Dated June 5, 2015, No. 15-mc-940 (E.D.N.Y. June 12, 2015) (ECF No. 26) (proposing executive committee structure with Regional International's counsel as co-chairs and appointment of liaison counsel).

See also Resp. to [Regional International Pls.'] Mot. to Appoint Counsel, *Regional International*, No. 15-cv-1798 (E.D.N.Y. May 21, 2015) (ECF No. 22) (Raccoon Valley Pls.' response to Regional International Pls.' motion for appointment of their counsel); Reply re: Mot. to Appoint Counsel, No. 15-mc-940 (E.D.N.Y. June 19, 2015) (Regional International Pls.' Reply to Raccoon Valley Pls.' Resp. re: Regional International Pls. motion for appointment of their counsel); Interim Response to Joint Letter [at ECF No. 26], No. 15-mc-940 (E.D.N.Y. June 15, 2015) (ECF No. 27) (Raccoon Valley Plaintiffs' interim response to IPP leadership committee proposal); Response to Joint Letter [at ECF No. 26], No. 15-mc-940 (E.D.N.Y. June 19, 2015) (ECF No. 31).

IV. Case Caption

The Court previously consolidated the pending cases for pre-trial purposes under the caption *In re Espar Antitrust Litigation*. However, these consolidated cases now involve multiple defendants in addition to the Espar Defendants: the Webasto Defendants, Proheat Mechanical Systems, Inc., Proheat Canada, Marine Canada Acquisition Inc., d/b/a/ Seastar Solutions, and individual defendants Volker Hohensee and John Bishop. The parties therefore request that the Court change the caption set forth in its May 28, 2015 Order to *In re Parking Heaters Antitrust Litigation* to reflect more accurately the current scope of the consolidated cases.

Dated: July 31, 2015

Respectfully submitted,

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