

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE AURORA DAIRY CORP.)
MILK MARKETING AND SALES) 4:08MD01907 ERW
PRACTICES LITIGATION) ALL CASES

PRACTICE AND PROCEDURE ORDER UPON TRANSFER
PURSUANT TO 28 U.S.C. §1407(a)

1. This order shall govern the practice and procedure in those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to their order of February 20, 2008 as well as all related actions originally filed in this Court or transferred or removed to this Court. The Court has been advised as of March 13, 2008, no opposition has been filed to the February 20, 2008 transfer order. Actions transferred to this Court and subsequent actions filed here as of this date are as follows:

4:07CV1701 ERW	Mothershead v. Aurora Dairy Corporation
4:08CV00254 ERW	Koch v. Aurora Dairy Corporation
4:08CV00280 ERW	Fiallos v. Aurora Dairy Corporation
4:08CV00303 ERW	Freye v. Aurora Dairy Corporation
4:08CV305 ERW	Still v. Aurora Dairy Corporation
ARE 4 08-10	Bowen v. Wal-Mart Stores, et al.
CAN 3 07-5331	Gallardo v. Aurora Dairy Corporation
CAN 3 07-6174	Riley v. Safeway, Inc.
CO 1 07-2285	Cockrell v. Aurora Dairy Corporation
CO 1 07-2449	Snell v. Aurora Dairy Corporation
CO 1 07-2622	Tysseling-Mattiace v. Wild Oats Markets, Inc.
CO 1 07-2625	West v. Aurora Dairy Corporation
MN 0 07-4755	Hudspeth v. Target Corp.
NYE 2 07-4425	Kaye v. Aurora Dairy Corp.
NYS 1 07-9418	White v. Aurora Dairy Corp.
WAW 2 07-1975	Hesse v. Costco Wholesale Corp.

This order shall also govern the practice and procedure in any tag-along actions transferred to this Court hereafter by the Judicial panel on Multidistrict Litigation pursuant to Rule 1 of the Rules of Procedure of that Panel subsequent to the filing of the final transfer order by the Clerk of this Court and any related actions subsequently filed in this Court or otherwise transferred or removed to this Court.

2. The actions described in paragraph 1 of this order are consolidated for pretrial purposes.

3. Any counsel representing any party in these cases must have a CM/ECF registration with the Eastern District of Missouri. Counsel must use their own CM/ECF registrations to file matters; no counsel shall “borrow” another’s registration, even within the same firm, and the lawyer whose name appears on the signature line must be the filing lawyer. So long as counsel is a members in good standing of any United States District Court, they need not seek association of local counsel or file a *pro hac vice* motion. Counsel who appeared in the transferor district court prior to the transfer need not enter a separate appearance before this Court. No parties to any of these actions shall be required to obtain local counsel in this district and the requirements of Rule 83 - 12.01(e) of the Local Rules of this Court are waived as to any attorney appearing in these actions who is duly admitted to practice before any United States Court. Counsel are expected to be familiar with the CM/ECF system so they can check the docket sheet themselves. All papers filed in these actions shall bear the identification “MDL Docket No. 4:08MD01907 ERW,” and when such papers relate to all these actions, the MDL docket number shall be followed only by the notation “ALL CASES.” If such paper does not relate to all of these actions, it should list the

individual docket numbers assigned by the Clerk of this Court.

4. Any paper filed in any of these actions shall be filed with the Clerk of this Court and not with the transferor district court.

5. Prior to the first status conference, service of all papers shall be made on each of the attorneys on the Panel Attorney Service List attached which is only current as of this time and which shall be periodically updated. Any attorney who wishes to have her or his name added or deleted from such Panel Attorney Service List may do so upon request to the Clerk of this Court with notice to all other persons on such service list. Service shall be deemed sufficient if made upon all attorneys on the Panel Attorney Service List. The parties shall present to the Court at the first status conference a list of attorneys for purposes of service. That list shall be updated, thereafter. Only one attorney for each party separately represented shall be included on such list.

6. Prior to the first status conference, counsel for each group of parties whose interests are similarly aligned shall recommend liaison counsel. Approval shall be subject to action of this Court. Liaison counsel shall be authorized to receive orders and notices from the Court on behalf of all parties with their liaison group and shall be responsible for the preparation and transmittal of copies of such orders and notices to the parties in their liaison group, except as notices and orders are sent by the CM/ECF system to all attorneys on the Panel Attorney Service List. Liaison counsel shall be required to maintain complete files with copies of all documents served upon them and shall make such files available to parties within their liaison group, promptly circulating

all notices, orders and any other material received by them from this Court, except as sent to all attorneys on the Panel Attorney Service List. Liaison counsel are also authorized to receive orders and notices from the Judicial Panel on Multidistrict Litigation pursuant to Rule 8(e) of the Panel's Rules of Procedure on behalf of all parties within their liaison group and shall be responsible for the preparation and transmittal of copies of such orders and notices to the parties in their Liaison group. In advance of the status conference, Plaintiffs' counsel shall meet and confer in an attempt to reach an agreement on identification of lawyers that should be appointed as Plaintiffs' liaison and lead counsel, and on whether a Plaintiffs' steering committee should be appointed, and, if so, make recommendations for such appointment. Plaintiffs' counsel shall attempt to reach an agreement on a proposed schedule for conducting discovery, class certification proceedings, motion practice and whether there is an intention to file a consolidated class action complaint that would include the claims of all Plaintiffs in one pleading. In advance of the status conference, Defendants' counsel shall meet and confer in an attempt to reach an agreement on identification of liaison counsel and lead counsel, and shall attempt to reach an agreement on a proposed schedule for conducting discovery and motion practice. Defendants should be prepared to report at the status conference whether any of their counsel will withdraw, whether any Defendant intends to file motions to dismiss based on jurisdiction or service issues, and whether they believe the appropriate defendants have been named.

7. Upon remand of any of these actions, the parties will be required to provide to this Court copies of documents relevant to such remand proceedings.

8. Hearings shall be held on any motions filed except by order of Court upon such notice as the Court may direct. Except for regularly scheduled status conferences, upon notice to the Court, counsel, except for liaison counsel, may participate by telephone.

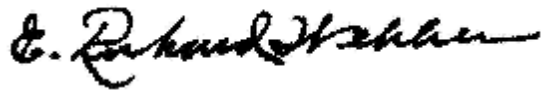
9. Any paper filed in any of these actions which is substantially identical to any other paper filed in another of these actions shall be sufficient if it incorporates by reference the paper to which it is substantially identical. Where counsel for more than one party plan to file substantially identical papers, they shall join in the submission of such papers and shall file only one paper on behalf of all so joined.

10. Any orders including protective orders previously entered by this Court, or any transferor district court, shall remain in full force and effect unless modified by this Court upon application.

11. All discovery proceedings in these actions are stayed until further order of this Court and the time requirements to perform any acts or file any papers pursuant to Rules 26 through 37, Federal Rules of Civil Procedure, are tolled until the first pretrial conference at which time discovery schedule will be established, except as to the parties' responsibilities to preserve and protect documents and electronic materials, which responsibilities remain in effect.

12. All other matters will be discussed at the initial scheduling conference to be held on **March 28, 2008**, at **1:30 p.m.** in Courtroom 12 South of the United States District Court in St. Louis, Missouri.¹ No later than **March 25, 2008**, counsel shall furnish suggestions for items to be included on the agenda for this conference. At least one counsel for each party shall appear in person at this conference. Telephone conferences will not be permitted at this hearing.

So Ordered this 14th Day of March, 2008.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

¹The Court is aware of the filings bearing docket #6 and #8 by Plaintiffs. The Court is not ignoring the matters raised in those documents, and those matters may be raised at the Status Conference.