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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ROGELIO LOPEZ-MUNOZ, et al.,	)	
	)	Lead Case:
Plaintiffs,	)	NO. H-19-CV-1460
	)	
v.	)	July 29, 2019
	)	
INTERCONTINENTAL TERMINALS	)	
COMPANY, LLC, et al.,	)	
	)	
Defendants.	)	

INITIAL CONFERENCE  
BEFORE THE HONORABLE KENNETH M. HOYT

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by computer-aided transcription.

1           THE COURT: Good morning. Thank you very much for  
2 your appearance.

3           This is, from my perspective, an opportunity,  
4 hopefully, to get you working together toward a management  
09:00 5 plan that will hopefully take the pressure off of me to  
6 address every issue that could possibly come up. And here's  
7 my vision and then I will hear from you as you determine  
8 what -- and probably have thought and talked about this.

9           I think that what we're probably going to need  
09:00 10 is a space, some place, where every party, every plaintiff,  
11 can go and view and determine what the evidence is and be  
12 able to access it without this exchange of paper back and  
13 forth. We need a place, we need a portal, where you can go  
14 and say, 'This is where the evidence is and I can pick out  
09:01 15 what I think is appropriate for my client,' that back-and-  
16 forth and then be supplemented with other kinds of requests  
17 to avoid, hopefully, defense having to respond individually  
18 to all of and any kind of questions and concerns that  
19 Plaintiffs' counsel might have.

09:01 20           We also need a systemic process in place, one  
21 that hopefully you can agree upon, where those requests can  
22 be funneled into a similar place and they can be addressed  
23 without having to individually respond to every party.  
24 While those might be individual answers that you might need,  
09:02 25 the question of privacy, the question of whether or not

1 everyone needs to know your client's business -- I think  
2 that can be resolved if you simply assign an appropriate  
3 access number to it and you can access what you need.

4 So, I am looking for high-tech people,  
09:02 5 somebody that knows a lot about this. I don't know anything  
6 about it. I am speaking off the top of my head, but I do  
7 have a sense of how I can avoid getting marred in any  
8 controversies that can arise as a result of each plaintiff  
9 filing a motion. And I have 30 motions to deal with on next  
09:02 10 Monday or something to that effect. That's not going to  
11 help anybody and I think my whole concern is to facilitate,  
12 let's call it, the discovery phase of this case.

13 I also have the idea that if anything remains  
14 standing -- that is, if the cases doesn't settle somewhere  
09:03 15 along the way -- that these cases might very well go back to  
16 the judges from whom I took them, and that's something that  
17 certainly might get worked out later on. I simply say that  
18 to relieve any anxiety that you would rather have Judge "X"  
19 or Judge "Y". And I don't have a problem with that at all.  
09:03 20 I have got more than I can say grace over on my own. So, I  
21 am not going to be jealous and resentful. In fact, I will  
22 help you. I will take the files to them.

23 (Laughter)

24 I'm just kidding. But the point is let's  
09:03 25 not get trapped and caught up in the personalities at this

1 point. Let's make sure we have got good strong discovery  
2 exchanges on both sides as it relates to your duty as  
3 Plaintiffs and defense counsel's duty as the counsel for the  
4 Defendant.

09:04 5 Secondly, I don't really want to see motions  
6 to dismiss or summary judgment motions until we know that we  
7 have exhausted all the other possibilities. By that I mean  
8 it may be that there might be a basis to make a claim for a  
9 dismissal of one or two or three or four of any particular  
09:04 10 plaintiff's claims. Be assured that, if that case stays  
11 with me, the time will come when we will address that, and  
12 by that I mean I will do everything I can to make sure that  
13 we don't go to trial on an issue that should not be  
14 presented to a jury or that would bog down the trial  
09:04 15 process.

16 So, we'll have plenty of time -- I say  
17 "plenty". We'll have time to address pleadings. We'll  
18 address issues or claims. All of that will come up at some  
19 point.

09:04 20 I suspect that there are some claims that are  
21 already in the lawsuit that might not survive.

22 Just as a matter of course, when we started  
23 practicing law back in the 70s, we soon learned that if we  
24 just throw the whole dishpan and sink and everything at  
09:05 25 counsel, something might survive so you might just get a

1 case to trial. Even though that practice has continued to  
2 some extent, I think it will get narrowed as we go along. I  
3 think wise men and women will come to that conclusion and  
4 take care.

09:05 5 So, my purpose is to not only speak about  
6 generally what I'd like to see happen, but I also want to  
7 hear from you, and this might require some coordination  
8 particularly from the Plaintiffs' bar -- I say "Plaintiffs'  
9 bar" -- the Plaintiffs' side of the case, because I don't  
09:05 10 know that I can hear from you individually on each and every  
11 thing that you might want to be heard on each time we have a  
12 conference in the event we need to have conferences.

13 What I'd like to think is that you may speak  
14 through one, two or three persons so that your claims are  
09:06 15 now identified or your concerns are now identified in a way  
16 that they're probably going to be somewhat common and one  
17 person or two people might speak to certain issues going  
18 forward.

19 So, I'm not trying to handle this like a  
09:06 20 class action lawsuit, but I am thinking of how lawyers may  
21 coordinate their efforts to treat a counsel or a particular  
22 lawyer in a way you choose among yourselves if you choose  
23 to. If not, we'll suffer whatever your thoughts on it. But  
24 if there are common issues that you have, certainly you  
09:06 25 should be able to put them to me and/or opposing counsel in

1 a way that we can manage -- I can manage your process and  
2 they can manage, hopefully, their need to address it.

3 In like fashion, I would expect that defense  
4 counsel would coordinate discovery concerns in a way that  
09:07 5 they're not all over the board, you might say, but done in  
6 such a way that the general information can be secured  
7 initially and then, as we go along, discovery gets to be  
8 more specific as relates to any particular party's claim,  
9 and we'll need to build in enough time for each of you to be  
09:07 10 satisfied that you have got enough or that you have enough  
11 discovery time to complete the discovery process. It's a  
12 team approach as opposed to an individual approach. I think  
13 it will help us all if that were to occur and, certainly, it  
14 will, I think, lighten your load as relates to the  
09:08 15 coordination. By "coordinate", lighten your load as we go  
16 along.

17 All right. Let me first off, then, having  
18 said that, see if I can get some announcements. I don't  
19 think that we had you to check in, did we? You did not  
09:08 20 check in.

21 All right. So, would you please grab a piece  
22 of paper and figure out what your case number is, and when I  
23 call your case number would you please then announce your  
24 name for the record so that the court reporter can catch  
09:08 25 your presence here.



1           After we get your announcements we'll take a  
2 look at the case management plan or plans that have been  
3 proposed and see if we can -- make sure we supplement them  
4 if we need to. If there's something that has come up, we  
09:09 5 can address that. We'll see who is not onboard and try to  
6 make sure we have got an order in place that satisfies each  
7 counsel's needs.

8           All right. Cause No. 19-1424. I believe  
9 that's going to be the lead case. And this is 1460, I  
09:10 10 believe. Let me just make sure. Let's start with 1424.  
11 Counsel for Cause No. 19-1424.

12           MR. HODGES: Your Honor, if I am reading my  
13 paperwork correctly, I believe that's me, counsel for  
14 Destrea Armstrong and the putative medical monitoring class.

09:10 15           THE COURT: All right. Your name again. I'm  
16 sorry.

17           MR. HODGES: It's David Hodges.

18           THE COURT: Spell the last name.

19           MR. HODGES: H-o-d-g-e-s.

09:10 20           THE COURT: Okay. And I am not going to call out  
21 the style of the case because it would just make it  
22 lengthier. That's why I want you to put your hands on your  
23 paperwork and you will know which case you're involved in.

24           Cause No. 1428.

09:10 25           MR. AGOSTO: Your Honor, Benny Agosto, Jr., for the

1 1428 case, the Mottu plaintiffs.

2 THE COURT: All right. 1430.

3 MR. HADI: Your Honor, Husein Hadi with the Hadi  
4 Law Firm for 1430.

09:11 5 THE COURT: Spell the last name again.

6 MR. HADI: H-a-d-i. Hadi Law Firm. And we have  
7 multiple cause numbers also.

8 THE COURT: You're representing other parties in  
9 another suit?

09:11 10 MR. HADI: In this same one, but I think it's -30,  
11 -31, -34, -36, and I'm not sure of the other cause numbers  
12 also.

13 THE COURT: All right. That's good. I appreciate  
14 that. So, 1430, 1431, 1434 and 1436?

09:11 15 MR. HADI: Uh-huh. And a few other ones.

16 THE COURT: Well, go ahead and tell me about them  
17 if you have got other numbers.

18 MR. HADI: Sure. I --

19 THE COURT: Oh. You're looking at that now. All  
09:11 20 right. We'll come back to you.

21 1433. Would that be one of your numbers as  
22 well?

23 MR. HADI: I don't have the list.

24 THE COURT: Don't have it? All right. We're a  
09:12 25 pretty good-sized courtroom. The court reporter has got his

1 ears on, but you will need to speak up.

2 1433. We'll come back to it.

3 1440.

4 MR. HADI: Your Honor, 1440 as well.

09:12 5 THE COURT: Okay. 1443.

6 MR. HADI: Your Honor, 1443 as well, Your Honor.

7 THE COURT: 1444.

8 MR. HADI: -44 as well, Your Honor.

9 THE COURT: How about -47, 1447?

09:12 10 ATTORNEY 4: 1447 is the Reyes plaintiff. William  
11 Ogden and Chance McMillan.

12 THE COURT: Okay. Very good. Thank you.

13 1450.

14 MR. HADI: Your Honor, the Hadi Law Firm again.

09:12 15 And also -52, Your Honor.

16 THE COURT: Okay. -53.

17 MR. HADI: Your Honor, -53 as well.

18 THE COURT: All right. We're going to just let  
19 everybody else go, then, right?

09:12 20 MR. HADI: I will take over from here.

21 THE COURT: 1457.

22 MR. HADI: Sorry, Your Honor. That's me as well,  
23 Your Honor.

24 THE COURT: All right. No problem.

09:13 25 1459.

1 MR. HADI: Again, Your Honor, it's the Hadi Law  
2 Firm.

3 THE COURT: All right. 1461.

4 MR. HADI: Sorry, Your Honor. If I sit down it's  
09:13 5 me as well.

6 THE COURT: Why don't you just remain standing --

7 MR. HADI: Yes, sir, Your Honor.

8 THE COURT: -- until we exhaust your list, then.  
9 1461 is yours.

09:13 10 How about 1708?

11 MR. UNDERWOOD: Good morning, Your Honor. Mark  
12 Underwood. That's the Bryant case. I also have my  
13 co-counsel here.

14 MR. SPURLING: Dennis Spurling. 1708, Your Honor.

09:13 15 THE COURT: Thank you very much.

16 1882.

17 MR. AGOSTO: Your Honor, Benny Agosto, Jr., for  
18 1882. It is the DiBello matter.

19 THE COURT: Very good.

09:13 20 And 1887.

21 1890.

22 MR. SAMPSON: Your Honor, Phillip Sampson on behalf  
23 of Vopak Terminal Deer Park.

24 THE COURT: I missed the last name. Please.

09:14 25 MR. SAMPSON: Sampson.

1 THE COURT: Sampson.

2 MR. SAMPSON: Yes, Your Honor.

3 MR. DODSON: And Chris Dodson as well, Your Honor.

4 THE COURT: And 1886. -86 and -87.

09:14 5 We're moving to 1924, -25.

6 MR. HOUSSIERE: Good morning, Your Honor. Charles  
7 Houssiere. I represent the Shepard class and the putative  
8 medical monitoring class as well.

9 THE COURT: Spell your last name, please.

09:14 10 MR. HOUSSIERE: H-o-u-s-s-i-e-r-e. I left a card  
11 on the bench.

12 THE COURT: Very good. Thank you, sir.

13 No. 2419. 19-2419. It's listed as a related  
14 case. I'm not sure if these are all packaged or not.

09:14 15 How about 2425?

16 MR. HOUSSIERE: That's us, Judge. Charles  
17 Houssiere.

18 THE COURT: And 2674.

19 2429.

09:15 20 We might have some parties that joined us  
21 recently that are not caught up with the mail; so, let me  
22 recall them again.

23 These would be 1443.

24 MR. HADI: 1443 is --

09:15 25 THE COURT: You did answer on that, didn't you?

1                   How about 1433?

2                   1886. 2419 and 2674 and 2429. I think these  
3 apparently -- Oh. I'm sorry.

4                   MR. FOX: Your Honor, if I could make an  
09:16 5 appearance. It's Shawn Fox with the Tracey & Fox Law Firm.  
6 I represent Abel Arguelles and Rhena Hernandez. These are  
7 recently remanded -- I'm sorry -- recently removed cases.  
8 As of Friday I'm not sure that they have been consolidated  
9 yet.

09:16 10                  THE COURT: All right. What is your number? You  
11 do have a case number, don't you?

12                  MR. FOX: I do, but I don't have it with me, Your  
13 Honor.

14                  THE COURT: It may be one of these.

09:16 15                  Out of Harris County 11th we have 19-20985.  
16 Is that you?

17                  MR. FOX: I don't know, Your Honor.

18                  THE COURT: Oh. You don't have a state case  
19 either. I see. And what is your name?

09:16 20                  MR. FOX: It's Shawn, S-h-a-w-n. Last name is Fox,  
21 F-o-x. I am with the Tracy & Fox Law Firm here in Houston.

22                  THE COURT: All right. Do we have other counsel  
23 for Plaintiff present that have not announced but who are  
24 involved in a case that either was not announced or that  
09:17 25 might have been recently removed?

1 We'll start on the left.

2 MS. WILLIAMSON: Yes, Your Honor. Che Williamson  
3 with the Weycer Law Firm representing Kerschen Woolridge and  
4 Monique Woolridge.

09:17 5 THE COURT: Spell your last name, please.

6 MS. WILLIAMSON: W-i-l-l-i-a-m-s-o-n.

7 THE COURT: All right.

8 Yes, sir.

9 MR. ROBERTS: Your Honor, Benjamin Roberts for the  
09:17 10 lead case, 1460, and I represent the Munoz plaintiffs along  
11 with co-counsel Alan Kolodny and Bradley O'Neill.

12 THE COURT: All right. And your last name is  
13 spelled?

14 MR. ROBERTS: Roberts, R-o-b-e-r-t-s.

09:17 15 THE COURT: Thank you.

16 MR. ROBERTS: Thank you, Your Honor.

17 THE COURT: All right. And?

18 MR. AGOSTO: Your Honor, Benny Agosto, Jr., again.  
19 I did not hear the cause number or did not connect the cause  
09:17 20 number with the Watts group of cases. Robert Hilliard filed  
21 it and I am going to take over lead. So, I am going to  
22 announce, even though I don't see the cause number  
23 associated with it on the list, but I will have --

24 THE COURT: What is the cause number? Do you have  
09:18 25 it?

1 MR. AGOSTO: Not off the top of my head. I will  
2 get it to your clerk as soon as I can.

3 THE COURT: No problem.

4 MR. AGOSTO: But just for announcement purposes  
09:18 5 it's the Watts case -- Watts, Coleman, Bridge and Mendez --  
6 filed by Robert Hilliard, and I will be taking over lead on  
7 those cases.

8 THE COURT: Okay. I saw another one. Yes, sir.

9 MR. FOX: Your Honor, I told you wrong. I have the  
09:18 10 cause numbers for my two cases here.

11 THE COURT: Go ahead.

12 MR. FOX: Rhena Hernandez. And the cause number is  
13 4:19-02419, and Abel Arguelles --

14 THE COURT: Hold on just one second. Those are the  
09:18 15 state law cases, No. 0241 --

16 MR. FOX: 02419.

17 THE COURT: 419, not 429. Yes, I do show that.

18 Your last name again, please, sir.

19 MR. FOX: Fox, F-o-x.

09:18 20 THE COURT: Yes.

21 MR. FOX: And the other case, Your Honor, is Abel  
22 Arguelles. The cause number: 02674.

23 THE COURT: All right. Got that. Thank you.

24 I think I saw another standing; did I not?

09:19 25 UNIDENTIFIED SPEAKER: We're together with Ben



1 Roberts.

2 THE COURT: Very good.

3 All right. I think I have heard an  
4 announcement for all Plaintiffs' counsel who are present  
09:19 5 and, hopefully, we have gotten your case numbers and all --  
6 we'll double-check -- correctly on the record.

7 Let's have an announcement, then, for counsel  
8 for the Defendant or Defendants.

9 MR. LEWIS: Good morning, Your Honor. Russell  
09:19 10 Lewis along with Michael Goldberg, Ben Gonsoulin and Kelly  
11 Hanen for ITC.

12 THE COURT: Are there other defendants in this  
13 case? Just one defendant?

14 MR. DYE: Your Honor, Phillip Dye and Matt Hoffman  
09:19 15 from Vinson Elkins. We're representing Mitsui, USA, who is  
16 a defendant in four cases.

17 THE COURT: Very good.

18 MR. RODRIGUEZ: Your Honor, also Ivan Rodriguez  
19 also for ITC.

09:20 20 THE COURT: Okay. All right. We have some parties  
21 who did not stand. Right? Does that mean you're associated  
22 with other counsel and no need to be identified on the  
23 record at this time?

24 All right. Let me see if I can get my hands  
09:20 25 on the -- it's the proposed scheduling order or management

1 plan that has been put forward.

2 Let me start out by asking whether or not  
3 there are any counsel for the Plaintiff who have not either  
4 joined in or -- have not joined in the joint discovery case  
09:21 5 management plan that was filed last week. Anyone who has  
6 not joined in or will not be joining in? And by that I am  
7 asking whether or not the way that this has been presented  
8 with the issues that you have addressed -- whether or not  
9 this is satisfactory to Plaintiffs' counsel.

09:21 10 (No response)

11 All right. No one is going to be brave enough to  
12 stand up and say, 'No, it's not my plan. I have got a  
13 separate plan'?

14 And I believe, as well, defense has joined, at  
09:22 15 least in some measure, in the way that this has been  
16 presented -- Is there any fallout or some other accomodation  
17 that we need to address from the defense's perspective? Who  
18 wants to speak to that? ITC or Mitsui or who else?

19 MR. LEWIS: Your Honor, Russell Lewis for ITC.

09:22 20 We're in agreement with, I would I say,  
21 90 percent of the plaintiffs in the case. There are a  
22 couple of issues that are identified in the case management  
23 plan where two other parties took our view to some degree.  
24 I think that's where the dispute is.

09:22 25 THE COURT: I'm sorry. Where what is? Pull that

1 microphone a little closer.

2 MR. LEWIS: Certainly.

3 THE COURT: I spent six years in a military tank  
4 and I still have ringing in my ears. But go ahead.

09:23 5 MR. LEWIS: Your Honor, as I had mentioned, we're  
6 in agreement with 90 percent --

7 THE COURT: Yes.

8 MR. LEWIS: -- of the attorneys in this room.

9 There are issues, one with Vopak, who is a  
09:23 10 plaintiff and that's identified in the case management plan,  
11 and one with the Bryant class action which is identified in  
12 the case management plan. The other plaintiffs and the  
13 other class actions are all in agreement with the position  
14 that's laid out.

09:23 15 THE COURT: All right. And who is it? Mr. Agosto,  
16 do you want to speak to --

17 MR. AGOSTO: Yes, Your Honor. May I be heard?

18 THE COURT: Sure.

19 MR. AGOSTO: Your Honor, first of all, thank you  
09:23 20 for the time. It's important given the amount of claimants  
21 and lawsuits that are present in the case.

22 There is one big issue that we, the defendants  
23 and most of the plaintiffs, have brought to the table first  
24 and that is the issue of jurisdiction. We have attempted  
09:24 25 through many means to figure out who all the potential

1 defendants are. Obviously, the ITC plant is the one that  
2 has the tanks that started, you know, the fire occurring.

3 THE COURT: Right.

4 MR. AGOSTO: Through our own investigation -- and,  
09:24 5 graciously, we have cooperated to have two different site  
6 inspections. There is actually a third one happening this  
7 week. So, the experts are doing their job and we are  
8 working collaboratively to figure out why this happened and  
9 how it happened. To the point of how this happened is the  
09:24 10 crucial question because we represent thousands of  
11 individual plaintiffs that went to the emergency room and  
12 had complaints.

13 THE COURT: Right.

14 MR. AGOSTO: And those folks, of course, have the  
09:24 15 right to figure out who all is responsible. It's easy to  
16 point fingers to ITC -- it's their tank fire and their  
17 plant -- but, more importantly, we need to figure out who  
18 was involved in all the maintenance and all the repairs and  
19 things that led to this. Because of that, we're asking you  
09:24 20 to look at that attempt that we have collaborated with and  
21 say to you let us figure out who all the potential  
22 third-party defendants are, if any. And then if there are  
23 none -- they have removed us from state court to federal  
24 court -- we'll stay here and deal with your proceedings  
09:25 25 through your court or the other courts as you send us to

1 those courts. But, in the meantime, if we don't do that  
2 first, we're going to be wasting a lot of time and money  
3 trying to figure out who is responsible, and maybe we'll be  
4 able to do that as we articulated in the plan.

09:25 5 I think what you will hear: that we have a  
6 plan that is workable. There is some difference of opinion  
7 from two other plaintiffs that I am sure you will hear in a  
8 sec, but those folks want discovery, too. It's just they  
9 have their own ideas as to how to proceed because they're a  
09:25 10 different plaintiff than the majority of the plaintiffs that  
11 are the individual injured parties.

12 So, I think if you look at that from that  
13 perspective, we're asking you to allow us to commence  
14 discovery with the limitations that we have agreed to and  
09:25 15 that allows us between now and December to do disclosures  
16 and to get responsible third parties or other parties, if  
17 they exist, on the table so that we can save money and  
18 judicial time and effort so that --

19 THE COURT: What's the jurisdictional question? Is  
09:26 20 it that I might be happy and this case doesn't belong to us?

21 MR. AGOSTO: It is not because of you, of course.

22 THE COURT: No. No. No. You know, I am out of  
23 bounds all the time, but I am trying to figure out is there  
24 federal jurisdiction?

09:26 25 MR. AGOSTO: Yeah. It's just full diversity. So,

1 right now that's the question. ITC was sued. They're  
2 wholly owned by foreign entities and, so, they removed. We  
3 have some cases pending before you that we have claimed less  
4 than 75,000 in damages. They were all removed. We think  
09:26 5 those are questions we'll have to deal with if we remain  
6 here, whether we belong here or not, diversity-wise or  
7 jurisdictionally-wise.

8 But I think the main goal is -- there is a lot  
9 of investigations going on, a lot of experts; and, if we can  
09:26 10 figure out who are all the responsible parties, that will  
11 allow us to be where we need to be.

12 THE COURT: All right. And who wants to speak to  
13 that issue or at least --

14 Yes, sir.

09:27 15 MR. SAMPSON: Your Honor, Phillip Sampson for Vopak  
16 as a defendant.

17 There are -- First of all, we agree that to do  
18 the limited discovery up front and early is very important  
19 because this issue of potential joinder and jurisdiction  
09:27 20 really goes to two things: number one, whether there will  
21 be at the end of the day diversity jurisdiction for purposes  
22 of the removal and maybe a remand; and secondly, to the  
23 extent ITC points the finger at other potentially  
24 responsible parties, the plaintiffs are going to need to be  
09:27 25 able to bring those parties in or we're prejudiced. There

1 are those empty chairs.

2 So, that's the reasoning behind getting this  
3 discovery done early. Vopak agrees that the first stage of  
4 discovery ought to be devoted to that.

09:27 5 Now, where Vopak somewhat departs and maybe, I  
6 know, has a disagreement with ITC has to do with the scope  
7 of the discovery done during that first phase, how much  
8 should the parties do to figure out if there are other  
9 defendants that are proper for the case. There, also, I  
09:28 10 believe, are class action issues that Vopak is not concerned  
11 with but that you may hear about.

12 Aside from the class action issues, I think  
13 the only differences we have goes to the scope of discovery.

14 For example, we all agree on initial  
09:28 15 disclosures needing to be provided September 3rd, something  
16 like that.

17 We have agreed to work through fact sheets and  
18 have fact sheets for the Plaintiffs. Even though that  
19 doesn't go to joinder, we have agreed to do that by December  
09:28 20 and by December have this joinder date.

21 What I think is reasonable is to have  
22 participation from ITC in this discovery effort of third  
23 parties beyond their -- and I think the way it's listed in  
24 the control plan, the management plan, is ITC agrees to  
09:28 25 attempt to provide us with names of parties that worked on

1 these tanks or maintained the tanks or otherwise were  
2 involved with them.

3 I think it's reasonable for the Plaintiffs to  
4 be able to serve limited interrogatories in addition to  
09:29 5 whatever the disclosures are and to giving us the names of  
6 the people that ITC is aware of who worked on the particular  
7 tank. I believe it's reasonable and necessary.

8 THE COURT: Why wouldn't disclosures be sufficient?  
9 Why would you need to do additional -- or let's call it  
09:29 10 interrogatories, period, if disclosure serves the same  
11 purpose?

12 MR. SAMPSON: Well, it may serve the same purpose.  
13 It may not. I don't know what we're going to get from ITC  
14 in connection with the disclosures. The disclosure  
09:29 15 requirements are -- I mean, they're limited to what  
16 disclosures are.

17 THE COURT: Right.

18 MR. SAMPSON: I'm not saying that there are going  
19 to be a hundred interrogatories we need to send. I believe,  
09:29 20 though, that we need to leave room for targeted  
21 interrogatories to the extent there are questions that --  
22 Rather than, you know, open it up right away and take a  
23 deposition, we can maybe get some targeted answers with  
24 limited answers.

09:30 25 Secondly, Your Honor, there have been -- and I



1 don't know the volume of this. ITC has been working with  
2 federal and local agencies in investigating the incident,  
3 and I understand that ITC has gathered its own documentation  
4 and turned over a number of relevant documents to these  
09:30 5 investigative authorities. And what we would like to have  
6 because it's really no -- because there is no burden on  
7 ITC -- they have already done it -- is the relative  
8 documents that have been collected and produced -- we would  
9 like to have that production as well so we can have some  
09:30 10 documentation to go off on during this three-to-four-month  
11 limited discovery period. Again, I think that's reasonable  
12 and, because it doesn't put an additional burden on ITC, I  
13 would request that we at least get those documents.

14 THE COURT: All right.

09:30 15 MR. SAMPSON: And then, thirdly and finally, I am  
16 not asking for a deposition, but depending on what happens  
17 during this three-month period and depending on what's in  
18 these third parties they say who are identified and we go to  
19 depose them, I would like to at least open the possibility  
09:31 20 in the plan that we could take an abbreviated, couple-hour  
21 deposition, depending on the circumstances, if it arises. I  
22 would just like to leave that possibility open. I would  
23 like for the plan not to just totally shut out the  
24 possibility for this additional discovery.

09:31 25 Those are the main issues that we have, Your

1 Honor.

2 THE COURT: We'll hear from you in just a minute.  
3 Let's see where you're coming from. Yes, sir.

4 MR. UNDERWOOD: Your Honor, again, my name is Mark  
09:31 5 Underwood and I am one of the attorneys for the putative  
6 class action Bryant case, which is 4:19-CV-01708.

7 And, Your Honor, defense counsel represented  
8 there's probably agreement with 90 percent of the  
9 plaintiffs, and that's probably fairly accurate, but the way  
09:31 10 it breaks down is that 90 percent is personal injury  
11 claims --

12 THE COURT: Right.

13 MR. UNDERWOOD: -- and then you have Vopak here,  
14 which is a commercial case, and then you have some class  
09:32 15 actions, including the Bryant case, which is mine, and the  
16 Armstrong case.

17 Now, the Armstrong case is a class action for  
18 medical monitoring and personal injury.

19 The Bryant case, my case, is distinctly  
09:32 20 different from all of these because it's essentially for  
21 damages for being displaced, all the people that had to  
22 shelter in place and the businesses that were ordered to  
23 shelter in place and the students that were kicked out of  
24 school for about a week.

09:32 25 So, there are distinct, definite differences

1 between, basically, these four categories of cases. Again,  
2 there's four categories of cases. There are personal injury  
3 cases, the commercial case here with Vopak, the displacement  
4 damages Bryant class action and then you have got the  
09:33 5 Armstrong medical monitoring. And I heard today for the  
6 first time there is another medical monitoring class action  
7 that's been filed. Those cases have different needs.

8 In the proposed management plan that has been  
9 filed in front of you, each one of those needs are  
09:33 10 separately laid out and it was crafted over several days  
11 trying to get everybody's position in there. We believe  
12 that -- and we filed a very similar class action arising out  
13 of the Arkema fires in front of Judge Ellison. It's been  
14 certified. It's now up on appeal in front of the Fifth  
09:33 15 Circuit. That case had separate tracks. It had a personal  
16 injury track and it had a class action track.

17 Now, our class action is probably more akin to  
18 Vopak's commercial case because neither of our cases have  
19 personal injury damages. But in the Arkema case there are  
09:34 20 at least two separate tracks.

21 We believe with the Bryant class action that  
22 we can have a class certified in about ten months. That's  
23 about how long it took us in the Arkema case once we got  
24 going. And we believe that the discovery that 90 percent of  
09:34 25 the plaintiffs want to do -- the personal injury

1 plaintiffs -- is not what -- we don't need that. We need  
2 discovery on the issues relevant to class cert. And we  
3 believe we can get the class certified; and, ultimately, if  
4 a class is certified, that may be a settlement vehicle to  
09:34 5 resolve all the other cases, including the personal injury  
6 cases.

7 So, in the management plan that you have  
8 that's been filed in front of you our position is laid out  
9 pretty clearly. We're ready to proceed with the case, Your  
09:35 10 Honor.

11 THE COURT: You're not saying or are you saying  
12 that you have no interest whatsoever in whether or not there  
13 are other parties that might have some exposure in this case  
14 that have not been identified other than ITC and maybe one  
09:35 15 or two other defendants?

16 MR. UNDERWOOD: Yes, Your Honor. We've alleged --

17 THE COURT: You would have interest in that,  
18 wouldn't you?

19 MR. UNDERWOOD: We have alleged trespass, nuisance  
09:35 20 and negligence. And we believe under the trespass and the  
21 nuisance case that it doesn't matter if there is a third  
22 party because we contend ITC's chemicals trespassed and  
23 constituted a nuisance. It doesn't matter if it was  
24 resolved with some third party.

09:35 25 Our position would be that, if ITC wants to

1 bring in a third party -- They probably have knowledge of  
2 the potential third parties at this point. If they want to  
3 bring them in, counterclaim against them, they're more  
4 than -- we're more than happy to let them do it, but it's  
09:36 5 not important to our nuisance and our trespass claims.

6 THE COURT: Wouldn't it be more efficient, from my  
7 perspective, if we knew who those people are up front rather  
8 than place the burden on someone to -- And I am sort of  
9 questioning whether or not six months from now we're now  
09:36 10 finding parties that need to be brought in and you have got  
11 your class action certification, I guess, let's say, in hand  
12 and you want to move forward, but you're not -- but certain  
13 people who might have been involved and should have  
14 participated in that determination have not been identified  
09:36 15 or are now being identified? Are we not going to have a  
16 problem with discovery that might identify persons and  
17 limited discovery that might give them an opportunity to say  
18 'It wasn't my dog' before certification occurs or before the  
19 discovery in earnest begins?

09:37 20 MR. UNDERWOOD: I completely understand your  
21 concern. It's not necessarily --

22 THE COURT: It wasn't a concern. I am really  
23 asking the question. I am putting you on the spot. I am  
24 trying to put you on the spot, anyway.

09:37 25 MR. UNDERWOOD: I understand.

1           THE COURT:  You're not of the opinion, I gather,  
2           that I would not be kind of reverse-engineering this if I  
3           were to go forward or permit parties to go forward with the  
4           certification questions simply because the personal injury  
09:37 5           claims are not there.  I say "personal injury".  You were  
6           talking about disclosure, I think you said, primarily.  And  
7           then later on those parties come back and say that  
8           'Discovery doesn't apply to me.  I want to do that all over  
9           again.'  Wouldn't we have that problem -- potentially  
09:37 10          anyway?

11           MR. UNDERWOOD:  Well, in other cases that we have  
12          done, including the Arkema case, that has not been the issue  
13          as we created separate tracks.

14                         Again, for nuisance and trespass we're not  
09:38 15          concerned about a potential third party.  Baker and Botts,  
16          ITC -- if they're aware of a third party they want to bring  
17          in, they can bring them in right now.

18           MR. LEWIS:  Thank, Your Honor.  Just a brief  
19          response from the ITC side.

09:38 20           THE COURT:  And for the record, when you come up if  
21          you would please give us your name so that we can associate  
22          it with the case you're involved in.

23                         You may have already done that when you came  
24          up.  Did you?

09:38 25           MR. UNDERWOOD:  I believe I did, but it's Mark

1 Underwood with the Bryant case.

2 MR. LEWIS: Your Honor, Russell Lewis for ITC with  
3 a brief response to both Vopak and to the Bryant plaintiffs'  
4 position.

09:38 5 And just to set the record straight, what  
6 we're going to be doing over the next few months it's beyond  
7 just disclosures. ITC has agreed to produce along with  
8 disclosures as a separate obligation -- because it's really  
9 not part of the disclosures -- to provide and identify as  
09:39 10 best they can any contractors or others who worked out on  
11 the tank that first caught fire in the tank fire over a  
12 period of ten years. So, it's beyond just, 'Hey. Here are  
13 disclosures from other persons who may have knowledge of  
14 relevant facts.' It's broader than that. And then the  
09:39 15 Plaintiffs want the opportunity to seek discovery from those  
16 third parties as well.

17 The fact sheets come our way from the  
18 Plaintiffs, but not only fact sheets for the current  
19 plaintiffs, but we're also going to discuss, because they  
09:39 20 have thousands of other plaintiffs, how they can provide  
21 that information to us. Now, we're not asking for that by  
22 December. December 20th is our deadline to get all this  
23 done. But it all goes into the "who is in, who is out" part  
24 of this case.

09:39 25 And then, third, it's written in the case

1 management plan, as the Court will see, Mitsui is going to  
2 have a jurisdictional issue that needs to be resolved at the  
3 same time.

4           So, that's really this first phase of who is  
09:39 5 in and who is out. And Vopak, for its part, objects -- they  
6 disagree with us, but they also disagree with the other  
7 90 percent of the plaintiffs who have looked at this and  
8 compromised over the last week, and we all believe that this  
9 is absolutely sufficient to get the Plaintiffs the  
09:40 10 information they might need for additional parties.

11           There are plenty of things once discovery  
12 starts that we're going to want from Vopak about what  
13 happened in the incident. And vice versa. I get that. But  
14 the notion of 20 interrogatories and then the deposition and  
09:40 15 all of these other things is atypical to the point that the  
16 Court set out at first, which is let's get this organized in  
17 one way so we're not doing piecemeal discovery here and  
18 there.

19           With respect to the documents to the  
09:40 20 government that Vopak raised, I understand that issue, and  
21 our issue with that is simply one of timing. Again, the  
22 other personal injury plaintiffs do not believe that they  
23 need those documents right now. We have several active  
24 government investigations going on and the government  
09:40 25 doesn't want requests for information being produced.



1                   We would have to have discussions with the  
2 government. Those investigations will continue and resolve,  
3 but at some point during merits discovery here, of course,  
4 we'll be producing documents that are relevant that are  
09:41 5 contained in that subset. I think that's just a timing  
6 issue.

7                   And with respect to the Bryant class, Your  
8 Honor -- Again, the other class actions agree with us on  
9 these preliminary steps. The Bryant class action is the  
09:41 10 only holdout, but there is no doubt that they benefit from  
11 the process in a negligence case where there is  
12 identification, potentially, of other parties. So, again,  
13 it's the who is, the who is out.

14                   There is absolutely a time we need to address  
09:41 15 class certification -- we understand that -- prioritized at  
16 the right time, and that's why the Plaintiffs would come  
17 back after these initial steps are done. And we'll be busy  
18 between now and the early part of December doing this work.  
19 And then we come back to Your Honor and we lay out a  
09:41 20 schedule that, hopefully, all the parties can agree on about  
21 where to go from there when we know who is in and who is  
22 out.

23                   THE COURT: What is your date in December? I don't  
24 have it handy.

09:42 25                   MR. LEWIS: Our joinder deadline, I believe we

1 said, is December 20th in the JDCMP.

2 THE COURT: [To Mr. Dye] Yes, sir.

3 [To Mr. Agosto] And then I will come back to  
4 you.

09:42 5 MR. AGOSTO: Yes. I wanted to clarify something.  
6 Go ahead.

7 THE COURT: No problem.

8 Yes, sir.

9 MR. DYE: Your Honor, Phillip Dye representing  
09:42 10 Mitsui, the aforesaid foreign owner of ITC.

11 Our first responsive pleading is due Friday,  
12 and we will be filing a motion to dismiss for lack of  
13 personal jurisdiction.

14 With this discussion of who is in and who is  
09:42 15 out, we definitely want out. We have only been sued because  
16 we're the parent company and we don't think we're subject to  
17 jurisdiction and we don't want to participate in all of this  
18 discovery.

19 So, that's what's coming from us. And I  
09:42 20 think, even though we're only in four cases, I would be  
21 remiss if I did not let you know that.

22 THE COURT: Certainly.

23 MR. DYE: Thank you.

24 THE COURT: And you want to respond to that also?

09:43 25 MR. AGOSTO: Just briefly.

1 THE COURT: I don't need a response from all the  
2 Plaintiffs' counsel, but the concerns, generally, would  
3 probably concern all Plaintiffs' counsel to the motion.

4 MR. AGOSTO: Yes, Your Honor. Benny Agosto, Jr.,  
09:43 5 again.

6 On behalf of my clients but in coordinated  
7 effort with the Plaintiffs' bar, to the extent that  
8 90 percent of us agree, we're trying to be collaborative  
9 here. But my only suggestion that's not in the management  
09:43 10 control plan but I think you have seen in other cases -- and  
11 I have seen it in federal courts across the country -- which  
12 is, after the initial disclosures, maybe you can set a time  
13 for us to have a brief status conference, because there is  
14 going to be issues maybe to satisfy all claimants here and  
09:43 15 defendants, whether it's Mitsui, whether it's Vopak or other  
16 plaintiffs, that we can come back to you after a short  
17 period of time and we have a status conference where you  
18 say, 'Is it working out the way you want it to?'

19 Because I think what's going to happen, if  
09:44 20 full disclosures occur and we get enough information to  
21 start this jurisdictional discovery, then we'll be moving  
22 forward towards that December time frame where everybody  
23 benefits and we really save time and money for all parties  
24 and including the Court's resources.

09:44 25 But if there is a major issue and you say

1 let's come back 45 days from now or 15 days after our  
2 disclosure -- We have done that in the Boeing litigation in  
3 Illinois because there's so many parties. The judge said,  
4 'Disclose everything and then come back and see me 15 days  
09:44 5 later.' That has set up those potential questions moving  
6 forward that the Court can help us clear up.

7 And I don't think --

8 THE COURT: What is your agreed upon disclosure  
9 date?

09:44 10 MR. AGOSTO: I think we said September 3rd.

11 UNIDENTIFIED COUNSEL: 3rd.

12 MR. AGOSTO: Yeah, September 3rd.

13 So, I think it's reasonable to do that. It  
14 doesn't break the plan that we had. It just allows you to  
09:44 15 guide us through any issues that may come up when disclosure  
16 comes back.

17 THE COURT: I think you're right. There are two  
18 dates of significance. One would be a date that we can  
19 agree upon following initial disclosures. But I think,  
09:45 20 also, rather than trying to set the type of discovery and  
21 the kinds and methods, certainly we might need to have a  
22 conference toward the end of the year after you have  
23 determined whether or not there are parties -- it may be  
24 first of the year, though -- if you have got other parties  
09:45 25 that need to be brought in that we need to look at the scope

1 of discovery and the directions of discovery that are  
2 needed.

3 I'm not in a hurry to -- I know that there is  
4 a concern, perhaps, on some parties' interests, but I think  
09:45 5 that there should not be someone ahead of anyone else in  
6 this process. So, I will just speak plainly. I want to  
7 make sure we're marching to the same music, that we're going  
8 on the same track or down the same road, and at the point of  
9 which you need to break off and become whoever you are in  
09:46 10 this process in this litigation, particularly from the  
11 Plaintiffs' point of view, we'll deal with that. But I get  
12 that and I will deal with that.

13 Did you have something else you needed to add  
14 to that? Was that all you needed?

09:46 15 MR. AGOSTO: That's it. I just wanted to --

16 THE COURT: We have two other persons.

17 Yes, sir.

18 MR. SAMPSON: Just to follow up on what Mr. Agosto  
19 said.

09:46 20 I think that's, actually, a very good idea,  
21 the thought of a status conference just after the  
22 disclosure --

23 THE COURT: Well, I want you to have time to read  
24 it and figure out what you got. So, it will follow that  
09:46 25 toward probably the end of September. I will figure out the

1 dates.

2 MR. SAMPSON: The reason being that we don't want  
3 to do any more discovery than we have to, but --

4 THE COURT: Well, I don't want you to either. I  
09:46 5 know that there is an entanglement that comes with that.

6 MR. SAMPSON: I don't want to be in a situation  
7 where we get a whole bunch of names of contractors over the  
8 last ten years and they get dumped on us and we just have to  
9 go and try to chase them down without being able to get  
09:47 10 additional information to narrow that down, which is why,  
11 potentially, some more targeted discovery would be --

12 THE COURT: Well, I think we can talk about that at  
13 the next conference in September.

14 MR. SAMPSON: I agree.

09:47 15 THE COURT: Yes, sir.

16 MR. HOUSSIERE: All right. Judge, my name is  
17 Charles Houssiere. I represent a medical monitoring class  
18 and we're one of the four people that have sued Mitsui as  
19 well.

09:47 20 So, we feel that before they file their motion  
21 to dismiss we may need to do some discovery to determine  
22 whether the Court does have jurisdiction over that  
23 corporation or not. So, that's one thing I want to point  
24 out.

09:47 25 The other thing I want to point out: that

1 many of the things that have been said here are related to  
2 the fire -- what happened, why did it take place and so  
3 forth. We have an additional issue. And I think Benny has  
4 done an excellent job in getting this agreed scheduling  
09:47 5 order, and so has Russell, and we're certainly going to join  
6 in that.

7 THE COURT: Yeah. I appreciate the work.

8 MR. HOUSSIERE: But we're just involved as of  
9 Thursday in the case, but I have to tell the Court this.

09:47 10 There is something that was used in the fire  
11 which is very dangerous. It's called PFAS foam. It's a  
12 surfactant. In fact, it means "bubbles". They use it in  
13 air force bases to put out fires. It's been banned by the  
14 military in the United States of America because it's so  
09:48 15 dangerous. More foam was used on this fire than has ever  
16 been used on any fire in the history of the United States of  
17 America.

18 We think some PFAS foam was used out there.  
19 Part of our discovery is going to be toward determining who  
09:48 20 manufactured it, who supplied it, how much was there and who  
21 made the decision to utilize it out there at the plant.  
22 That is part of the discovery that we're going to need to do  
23 in this case, and I just wanted to point that out to the  
24 Court because that's a little different than what's been  
09:48 25 discussed today.

1 THE COURT: I get it.

2 MR. HOUSIERE: Thank you, Judge.

3 THE COURT: Are you standing with or --

4 MR. SPURLING: No, Your Honor. I'm Dennis Spurling  
09:48 5 here, 1708, on behalf of the Bryant case.

6 I'd first like to -- those three gentlemen in  
7 the back are Thurgood Marshall graduates. I invited them  
8 over from Judge DaSean Jones' courtroom.

9 THE COURT: I will speak to you all about that  
09:49 10 afterwards.

11 MR. SPURLING: Yes, sir.

12 The case management plan that we presented  
13 kind of lays out the Bryant case's position.

14 The other thing I'd like to point, Your Honor,  
09:49 15 about is that we filed in this court. 90 percent of those  
16 plaintiff lawyers filed in state court and it was removed  
17 here and it's my understanding they're fighting to have  
18 their case sent back to state court. We're going to be  
19 here. We're going to stay here. So, you may very well be  
09:49 20 left with just us and the medical monitoring class action  
21 and the Vopak class action.

22 And, so, I think, Your Honor, if it pleases  
23 Your Honor -- pleases this court, please take the time to  
24 look at that management plan and you'll see there are some  
09:49 25 distinct differences between what we need and what they need



1 and we're going to step on their toes. It happened over in  
2 Arkema, in the Arkema case, and it will happen here. So, I  
3 think if Your Honor will please do that you'll see exactly  
4 where we're coming from.

09:49 5 Thank you, Your Honor. Appreciate it.

6 THE COURT: All right. New face.

7 MR. GOLDBERG: And old face.

8 THE COURT: Okay. New name.

9 Mr. GOLDBERG: Your Honor, Michael Goldberg at  
09:50 10 Baker Botts with Russell Lewis, Kelly Hanen and Ben Johnson.

11 The class action folks and Bryant just had two  
12 lawyers before you. I thought it would be my chance --

13 THE COURT: Balance the equation. Yeah.

14 MR. GOLDBERG: I just want to make sure -- I know  
09:50 15 this joint plan was filed late, so -- I just want to narrow  
16 it down real simple with what's going on.

17 We have had so many plaintiffs back and forth,  
18 'I want this,' 'I want this,' 'I want this,' you know, 'I  
19 want Vopak's information,' 'I want' -- And, so, what we've  
09:50 20 come down to -- and I will give credit to a couple  
21 plaintiffs lawyers that sort of took the lead -- but we  
22 said, 'Okay. Here's what we're going to do. We are not  
23 going to do discovery to Vopak. We're not going to do  
24 discovery to the Plaintiffs' attorneys. Just the fact  
09:50 25 sheets that will come in. We're going to hold off. You

1 guys, you have got a real interest, we all do, and let's get  
2 the right parties in if you think there are other parties.  
3 And, so, besides disclosures' -- which everyone has to do --  
4 'we're also going to give you information that we have, what  
09:51 5 we can find in terms of other third parties, as Mr. Lewis  
6 told you.'

7 But the part of that agreement was, 'Okay.  
8 We're treating each other fairly and in the same way. So,  
9 we're not going to spend time while we're still trying to  
09:51 10 remediate, take down the tanks and dealing with the  
11 government investigations' -- 'We're still doing it.' We're  
12 still producing to them or whatever. 'We're not going to  
13 produce any documents or anything else. You're not going  
14 to. We're going to be efficient. We're going to take just  
09:51 15 four months to get the right parties. And then we're going  
16 to come back before the Court and then we'll decide do we  
17 need a separate track, do we need whatever. What's  
18 absolutely clear is the class actions all agree, the  
19 Plaintiffs all agree, except for one class action and one  
09:51 20 competitor, that -- for whatever reasons.

21 And, so, we're very strong on the issues that  
22 Vopak has raised that they want, they want, they want.  
23 Well, that kills the whole deal because we want, we want and  
24 we want. So, that's the whole aspect. We have come up with  
09:52 25 a plan. It saves everybody time, money. It saves the Court

1 efficiency not having to deal with anything and in December  
2 we come, we got the new parties. Then we can sit down and  
3 talk what's the right track.

4 And that's the agreement we have reached with  
09:52 5 every single lawyer in here apart from --

6 THE COURT: All right. Well, thank you very much.  
7 And I'm not really sure I need to hear additional discussion  
8 and concern on this matter. I started this process by  
9 indicating my general feeling and concerns about the scope  
09:52 10 and nature of things to be done and, certainly, it is  
11 important and critical that we keep our arms wrapped around  
12 the management aspect of this case until such time as there  
13 is a basis for breaking it out, because, if there is, it may  
14 be that I need to take part of the case and assign it to  
09:53 15 another judge and let that judge run with that aspect of the  
16 case.

17 I mean, it may be that we'll have to do that,  
18 but that won't come this year, in my view. It will  
19 certainly have to come sometime after we take a look at the  
09:53 20 question of whether or not the defendants necessary for  
21 complete litigation of these issues are in place; and,  
22 secondly, looking at the nature and scope of discovery that  
23 might be part of a shared discovery versus some that are  
24 particularized and need to be done separate and apart.  
09:53 25 Whether that requires other judges to get involved I don't

1 know. I'll be certainly looking at that to make sure that I  
2 don't choke on all of what you've got. I will certainly not  
3 try to -- There's enough to go around as we say in this  
4 business, and I certainly think that to the extent that we  
09:54 5 need other judges to get involved it may be that we can  
6 carve the case back for discovery purposes and assign  
7 certain cases. So, I am just throwing it out there as  
8 something to think about as you march down the road.

9 Now, I am going to put something in place over  
09:54 10 the next day, day and a half, two days, after I have  
11 digested your remarks and made sure that they're integrated  
12 into the -- if not already, into the joint discovery case  
13 management plan, but certainly they are a part of what I  
14 believe to be a systematic approach going forward so we  
09:54 15 don't step on each others' toes until we have to.

16 So, we will have a date sometime toward the  
17 middle or latter part of September when I will see you  
18 again. I don't generally like to call lawyers to the  
19 courthouse. I know it takes a lot of leather and time away  
09:55 20 from the office, but I think until we kind of get a sense of  
21 direction and you get -- You're pretty friendly with each  
22 other now, but until you get to a point where you feel that  
23 you're marching in the same direction we might need to do  
24 additional or other conferences, and I will kind of gauge  
09:55 25 that by determining from you whether or not there is some

1 need for additional conferences. And we will probably -- as  
2 long as we have got the numbers that we have, we'll have to  
3 do those at the courthouse so that each of you have benefit  
4 of the discussion without having to listen to it on the  
09:55 5 phone and having dropped calls and things.

6 I don't think I have anything else at this  
7 point. I will be, as I say, restricting motions, meaning  
8 that I don't say you shouldn't file them. I am just saying  
9 that I will not necessarily address some of those motions.  
09:56 10 And the reason is not because I am being contrary. It's  
11 because I want to make sure that I am not putting any party  
12 ahead of the process or making sure that in the process of  
13 doing discovery that it doesn't force discovery that I am  
14 not ready to have the engagement with you on so that  
09:56 15 whatever discovery is being done it should be done for the  
16 benefit of all parties when it gets done.

17 Thank you very much, ladies and gentlemen.

18 MR. AGOSTO: Your Honor, housekeeping matter,  
19 briefly.

09:56 20 THE COURT: Sure.

21 MR. AGOSTO: Benny Agosto, Jr., again.

22 As you mentioned, I think it's important that  
23 we procure, when we come back to see you when you call us in  
24 September, for a leadership team or plaintiff liaison, and  
09:56 25 that's the only thing we had not mentioned. I know you

1 mentioned it earlier --

2 THE COURT: I did mention it up front and I did not  
3 want to push that right now, but I would hope that you would  
4 have suggestions about that, because there's no reason for  
09:57 5 you to be shifting papers across town, e-mail and otherwise  
6 when there may be a possibility of you going to a site where  
7 you can look at discovery and choose what you need, and  
8 that's going to require some coordination and some effort.

9 So, I do look forward to and would like to see  
09:57 10 some leadership through trusted counsel, let's say, on the  
11 plaintiffs' side. When I say "trusted counsel" it doesn't  
12 mean that anybody is distrusted. I mean that you will work  
13 together through one of several voices. And, of course, I  
14 think that we have a limited number of voices on the defense  
09:57 15 side. And I'm not sure if y'all are going to speak to each  
16 other necessarily about anything except the direction that  
17 the case is going.

18 So, we'll count on counsel for ITC to pretty  
19 much be the lead spokesperson on the defense side.

09:58 20 MR. AGOSTO: That's what we want to do.

21 MR. SPURLING: Does the Court have any preferences?

22 THE COURT: No, I don't have any.

23 MR. SPURLING: I propose we put him in charge of  
24 all the personal injury cases.

09:58 25 THE COURT: I think you choose your own poison.

1           MR. AGOSTO: Yes, Your Honor. I think what we're  
2 going to do to follow your lead there is that, between now  
3 and your late September conference that you asked, we'll  
4 propose working together and have something for you to  
09:58 5 approve so that everybody is on the same page, and if there  
6 is different pages we need to bring them to you we will.  
7 But I just wanted to agree with you and bring that to you at  
8 the end as housekeeping.

9           THE COURT: Sure thing.

09:58 10          MR. AGOSTO: Thank you.

11          MR. SAMPSON: Your Honor, Phillip Sampson.

12                   Briefly, one inconsistency in the plan for  
13 purposes of what you're putting together with the agreed  
14 fact --

09:58 15          THE COURT: What paragraph are you looking at?

16          MR. SAMPSON: It's Page 12. It's the schedule in  
17 the middle of Page 12. The deadline for responsive fact  
18 sheets should be December 20. This says December 6. So,  
19 December 20 is correct.

09:58 20          THE COURT: All right. Thank you, sir.

21                   All right. Have a good day.

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COURT REPORTER'S CERTIFICATE

I, BRUCE SLAVIN, certify that pursuant to  
28 USC § 753 the foregoing is a correct transcript from the  
record of proceedings in the above entitled matter, to the  
best of my ability.

s/Bruce Slavin  
BRUCE SLAVIN, RPR, CMR