

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

Case No. 1:18-cv-39

v.

Hon. Janet T. Neff

WOLVERINE WORLD WIDE, INC.,

Defendant.

NOTICE OF HEARING

TAKE NOTICE that a hearing has been scheduled as set forth below:

Type of hearing(s): Final Pretrial Conference
Date/Time: October 30, 2019 01:30 PM
Judge: Janet T. Neff
Place/Location: 401 Federal Building, Grand Rapids, MI

JANET T. NEFF
United States District Judge

Dated: July 26, 2019

By: /s/ Rick M. Wolters
Case Manager

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

Case No. 1:18-cv-39

v.

Hon. Janet T. Neff

WOLVERINE WORLD WIDE, INC.,

Defendant.

NOTICE OF HEARING

TAKE NOTICE that a hearing has been scheduled as set forth below:

Type of hearing(s): Summary Jury Trial
Date/Time: November 13, 2019 09:00 AM
Judge: Janet T. Neff
Place/Location: 401 Federal Building, Grand Rapids, MI

Counsel shall be present for an in-chambers conference one-half hour prior to the start of trial.

JANET T. NEFF
United States District Judge

Dated: July 26, 2019

By: /s/ Rick M. Wolters
Case Manager

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

Case No. 1:18-cv-39

and

HON. JANET T. NEFF

PLAINFIELD CHARTER TOWNSHIP, et al.

Intervenors-Plaintiffs,

v.

WOLVERINE WORLD WIDE, INC.,

Defendant.

_____/

WOLVERINE WORLD WIDE, INC.,

Third-Party Plaintiff,

v.

3M COMPANY,

Third-party Defendant.

_____/

ORDER

On June 12, 2019, the Court ordered the parties to confer on a plan to expedite a determination of the appropriate remedy for the House Street area water contamination at issue in this case, i.e., whole-house filters or extension of the municipal water supply (ECF No. 70). In accordance with the Court's Order, the parties have filed a Joint Notice Outlining a Remedy Determination Plan (ECF No. 94), as well as Notices of their separate positions to the extent a consensus was not reached: Plaintiff Michigan Department of Environmental Quality (MDEQ) Notice (ECF No. 98); Intervening Plaintiffs Plainfield Charter Township and Algoma Township

(Townships) Notice (ECF No. 99); and Defendant Wolverine World Wide (WWW) Notice (ECF No. 101).

The Court adopts the jointly proposed procedure, with modifications, as follows:

1. All parties—MDEQ, WWW, the Townships, and the 3M Company (3M)—shall participate in structured, confidential settlement discussions or confidential mediation under the following terms:
 - A. All parties are required to participate.¹
 - B. The parties will collectively select a mediator **ten days** from entry of this Order, but if the parties are unable to agree on a mediator the Court will appoint one from a list provided by the parties.
 - C. Within **ten days** from the date the mediator is selected or appointed, the mediator will consult with the parties and set a time and place for an initial mediation session and any additional mediation sessions as necessary.
 - D. At least **seven days** before the initial mediation session each party will provide the mediator with a memorandum, no more than ten double-spaced pages in length.
 - E. The settlement or mediation discussions will occur contemporaneously with the ongoing discovery and litigation schedules.
 - F. The settlement or mediation discussions will not delay or impede the progress or deadlines in this matter.

¹ Pursuant to the parties' Joint Notice, 3M is not a party to the MDEQ's and Townships' claims against Wolverine and, therefore, 3M will not participate with respect to those claims against Wolverine or any trial to decide the appropriate remedy associated with liability for those claims against Wolverine for the affected water supply in the House Street area. 3M will participate in the confidential mediation process.

- G. The settlement or mediation discussions, and any written submissions, are subject to Rule 408 of the Federal Rules of Evidence and *Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976, 981 (6th Cir. 2003).
2. The parties' **September 16, 2019 Joint Notice** will indicate the status of the House Street area remedy determination, including settlement or mediation efforts/results.
 3. If the remedy issue is not resolved by the parties through settlement or mediation, the Court will conduct a **Summary Jury Trial on Wednesday, November 13, 2019**, for presentation of the opposing cases on the issue of the appropriate remedy for the House Street area. Clients are expected to attend.
 - A. Following the September 16, 2019 Joint Notice, the Court will issue a **List of Considerations** to be presented for decision by the summary jury.
 - B. The opposing sides shall not later than **October 11, 2019** file a joint statement of the case/purpose of the Summary Jury Trial and a proposed verdict form of limited questions for decision by the summary jury, based on the permitted considerations set forth by the Court.
 - C. Each side, the Townships-MDEQ² and WWW, will be permitted two hours for the presentation of evidence by counsel, with no witnesses, and an additional fifteen minutes for closing argument. Counsel will present their evidence in a narrative fashion. Representations of facts by counsel must be supportable by reference to discovery materials, including depositions, stipulations, documents, and formal admissions, or by a representation that

² The Townships and MDEQ shall determine the allocation of their two-hour total between them.

counsel has spoken with the witness and is repeating that which the witness stated.

- D. The Court will conduct a Final Pre-Trial Conference **October 30, 2019, 1:30 p.m.**
 - E. The Court will publish by order specific guidance and submission requirements for the Final Pre-Trial Conference and Summary Jury Trial at least fourteen days in advance of the Final Pre-Trial Conference.
 - F. The decision rendered by the summary jury shall be the basis for further mediation and settlement of the appropriate House Street remedy and a final determination by the Court.
4. Separate notices shall issue for the date and time of the Final Pre-Trial Conference and Summary Jury Trial.

IT IS SO ORDERED.

Dated: July 26, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge