

3. Conference calls are set for March 19, 2015, at 10:00 a.m.; April 3, 2015, at 11:30 a.m.; and April 17, 2015, at 10:45 a.m.¹ These dates and times differ from those set at the status hearing. If the revised schedule presents an unresolvable conflict for any of the parties, counsel shall meet and confer and provide, via email, two alternative dates and times to the Courtroom Deputy, Ms. Chashawn White (Chashawn_White@dcd.uscourts.gov), who shall reset the scheduled conference call and provide notice to the parties. Counsel for Sysco shall circulate a dial-in number before each call.

Modification of the Protective Order

4. No later than March 6, 2015, at 5:00 p.m., Defendants shall submit sworn declarations under 28 U.S.C. § 1746 from those members of their respective in-house legal teams whom they wish to receive full and complete access to material designated as “Confidential Material” under the Protective Order (including the identities of witnesses). To receive such access, the declarant must attest, in a manner similar to the declarant in *F.T.C. v. Whole Foods Market, Inc.*, No. 07-1021 (PLF), 2007 WL 2059741, at *2 (D.D.C. July 6, 2007), that he or she is not “positioned to advise the client as to business decisions that the client would make regarding, for example, pricing, marketing, or design issues when that party granted access has seen how a competitor has made those decisions,” *id.* (citations omitted). Plaintiffs and Third-Party Interveners Reinhart Foodservice, L.L.C., and Shamrock Foods Company (“Third-Party Interveners”) may file a response offering evidence of a declarant’s participation in “competitive decision-making” no later than March 11, 2015, at 5:00 p.m. The court will permit no more than two members of each Defendant’s in-house legal team to have full and complete access to Confidential Material.

¹ The court will conduct these conference calls from Courtroom 10, thereby allowing members of the public to attend, if they wish.

5. The identities of third parties who provided affidavits or other information during Plaintiffs' investigations shall, for now, remain under seal. Defendants may file a motion challenging the non-disclosure of such third-parties' identities. Plaintiffs and Third-Party Interveners may file a response within four days of Defendants' motion. A reply brief, if any, shall be filed within three days of the responses. All filings shall be limited to five pages, excluding exhibits.

Redaction of Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction

6. Plaintiffs shall file on the public record on or before March 11, 2015, a redacted version of their Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, ECF #4-1 ("TRO Memorandum"). If there are disagreements regarding redactions, the parties are directed to highlight the areas of disagreement in a joint memorandum and set forth their respective positions. The joint memorandum shall be no more than five pages, excluding exhibits.

Housekeeping Matters

7. All pleadings filed in this matter, from this point forward, shall contain hyperlinks to the cited exhibits. On or before April 5, 2015, Plaintiffs shall re-file under seal their TRO Memorandum with hyperlinks to exhibits.

8. The parties shall not file a motion concerning a discovery dispute without leave of court. If a discovery dispute arises, the parties shall make a good faith effort to resolve or narrow the areas of disagreement. If the parties are unable to resolve the discovery dispute, they shall contact chambers at (202) 354-3250 to schedule a telephone conference, during which the court will either rule on the issue or determine the manner in which it will be handled.

9. On or before March 13, 2015, Defendants shall file corporate disclosures pursuant to Local Civil Rule 7.1.

Dated: March 5, 2015


Amit P. Mehta
United States District Judge