

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,

<p><i>s/ Francis O. Scarpulla</i> Francis O. Scarpulla LAW OFFICES OF FRANCIS O. SCARPULLA 456 Montgomery Street 17th Floor San Francisco , CA 94104 Telephone: (415)788-7210 E-mail: fos@scarpullalaw.com</p> <p>Josef D. Cooper Tracy R. Kirkham John D. Bogdanov COOPER & KIRKHAM, P.C. 357 Tehama Street, Second Floor San Francisco, CA 94103 Telephone: (415) 788-3030 Facsimile: (415) 882-7040 E-mail: jdc@coopkirk.com trk@coopkirk.com jdb@coopkirk.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff Regional International Corp. and Mead's Automotive, LLC</i></p>	<p><i>/s/ Bonny E. Sweeney</i> Bonny E. Sweeney HAUSFELD LLP 600 Montgomery Street, Suite 3200 San Francisco, CA 94111 Telephone: (415) 633-1908 Facsimile: (415) 358-4980 Email: bsweeney@hausfeld.com</p> <p>Michael D. Hausfeld Seth R. Gassman HAUSFELD LLP 1700 K St. NW, Suite 650 Washington, D.C. 20006 Telephone: (202) 540-7200 Facsimile: (202) 540-7201 Email: mhausfeld@hausfeld.com sgassman@hausfeld.com</p> <p><i>Counsel for Direct Purchaser Plaintiff Triple Cities Acquisition LLC d/b/a Cook Brothers Truck Parts</i></p>
---	---

<p><u>//s/ W. Joseph Bruckner</u> W. Joseph Bruckner Heidi M. Siltan Elizabeth R. Odette Devona L. Wells LOCKRIDGE GRINDAL NAUEN P.L.L.P. 100 Washington Avenue South, Suite 2200 Minneapolis, MN 55401 Telephone: (612) 339-6900 Facsimile: (612) 339-0981 E-mail: wjbruckner@locklaw.com hsiltan@locklaw.com erodette@locklaw.com dlwells@locklaw.com</p> <p>Steven N. Williams Alexander E. Barnett COTCHETT, PITRE & MCCARTHY, LLP 40 Worth Street, 10th Floor New York, NY 10013 Telephone:: (212) 201-6820 Facsimile: (646) 219-6678 E-mail: swilliams@cpmlegal.com abarnett@cpmlegal.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff North Jersey Truck Center, Inc.</i></p>	<p><u>/s/ Michael L. Roberts</u> Michael L. Roberts Debra G. Josephson Stephanie E. Smith THE ROBERTS LAW FIRM 20 Rahling Circle Little Rock, AR 72223 Telephone: (501) 476-7391 Facsimile: (501) 821-4474 Email: mikeroberts@robertslawfirm.us stephaniesmith@robertslawfirm.us debrajosephson@robertslawfirm.us</p> <p>Joseph C. Kohn William E. Hoese Douglas A. Abrahams KOHN, SWIFT & GRAF, P.C. One South Broad Street Suite 2100 Philadelphia, PA 19107 Telephone: 215-238-1700 Facsimile: 215-238-1968 jkohn@kohnewift.com whoese@kohnewift.com dabrahams@kohnewift.com</p> <p>Jonathan W. Cuneo Taylor Asen CUNEO GILBERT & LADUCA, LLP 16 Court Street, Suite 1012 Brooklyn, NY 11241 Telephone: 202.789.3960 Facsimile: 202.589.1813 Email: jcuneo@cuneolaw.com tasen@cuneolaw.com</p> <p><i>Counsel for Direct Purchaser Plaintiff National Trucking Financial Reclamation Services</i></p>
<p><u>/s/ Michael A. Toomey</u> Michael A. Toomey BARRACK, RODOS & BACINE 11 Times Square 640 8th Avenue, 10th Floor New York, NY 10036 Telephone: 212.688.0782 Facsimile: 212.688.0783</p>	<p><u>/s/ Allan Steyer</u> Allan Steyer D. Scott Macrae STEYER LOWENTHAL BOODROOKAS ALVAREZ & SMITH LLP One California Street Suite 300 San Francisco, CA 94111</p>

<p>Email: mtoomey@barrack.com</p> <p>Gerald J. Rodos Jeffrey B. Gittleman Julie B. Palley BARRACK, RODOS & BACINE Two Commerce Square 2001 Market Street, Suite 3300 Philadelphia, PA 19103 Telephone: (215)963.0600 Facsimile: 215.963.0838 Email: grodos@barrack.com jgittleman@barrack.com jpalley@barrack.com</p> <p>William M. Audet Jonas P. Mann AUDET & PARTNERS, LLP 221 Main Street, Suite 1460 San Francisco, CA 94105-1938 Telephone: (415)568-2555 Facsimile: (415) 568-2556 waudet@audetlaw.com jmann@audetlaw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiffs Thomas Johnson and Jim Steger</i></p>	<p>Telephone: (415) 421-3400 Facsimile: (415) 421-2234 Email: asteyer@steyerlaw.com smacrae@steyerlaw.com</p> <p><i>Counsel for Direct Purchaser Plaintiff Myers Equipment Corp.</i></p>
<p><u>/s/ Steve W. Berman</u> Steve W. Berman HAGENS BERMAN SOBOL SHAPIRO LLP 1918 Eighth Avenue, Suite 3300 Seattle, Washington 98101 Telephone: 206-623-7292 Facsimile: 206-623-0594 Email: steve@hbsslw.com</p> <p>Elizabeth A. Fegan Jason A. Zweig Daniel J. Kurowski HAGENS BERMAN SOBOL SHAPIRO LLP 455 W. Cityfront Plaza Drive, Suite 2410 Chicago, Illinois 60611 Telephone: 708-628-4949 Facsimile: 708-628-4950 Email: beth@hbsslw.com jasonz@hbsslw.com</p>	<p><u>/s/ Robert N. Kaplan</u> Robert N. Kaplan Gregory K. Arenson Lauren I. Dubick KAPLAN FOX & KILSHEIMER LLP 850 Third Avenue, 14th Floor New York, NY 10022 (212) 687-1980 Email: rkaplan@kaplanfox.com garensen@kaplanfox.com ldubick@kaplanfox.com</p> <p><i>Counsel for Direct Purchaser Plaintiffs Guay Brothers Company and Advance Diesel Service</i></p>

<p>dank@hbsslw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiffs Raccoon Valley Transport, Inc. and Audrias Labaciuskas</i></p>	
<p><u>/s/ Daniel C. Hedlund</u> Daniel C. Hedlund Daniel E. Gustafson Jason S. Kilene Daniel J. Nordin GUSTAFSON GLUEK PLLC 120 South 6th Street Suite 2600 Minneapolis, MN 55402 Telephone: (612)333-8844 Facsimile: (612)339-6622 Email: dgustafson@gustafsongluek.com jkilene@gustafsongluek.com dhedlund@gustafsongluek.com dnordin@gustafsongluek.com</p> <p>Alexander E. Barnett COTCHETT, PITRE & MCCARTHY, LLP 40 Worth Street, 10th Floor New York, NY 10013 Tel: (212) 201-6820 Fax: (646) 219-6678 Email: abarnett@cpmlegal.com</p> <p>Steven N. Williams COTCHETT, PITRE & MCCARTHY, LLP 840 Malcolm Rd., Suite 200 Burlingame, CA 94010 Tel: (650) 697-6000 Fax: (650) 697-0577 Email: swilliams@cpmlegal.com</p> <p>Simon B. Paris Patrick Howard SALTZ, MONGELUZZI, BARRETT & BENEDESKY, P.C. 1650 Market Street, 52nd Floor Philadelphia, PA 19103 Telephone: (215) 496-8282 Facsimile: (215) 496-0999 Email: sparis@smbb.com phoward@smbb.com</p>	<p><u>/s/ Solomon B. Cera</u> Solomon B. Cera CERA LLP 595 Market Street, Suite 2300 San Francisco, California 94105 Telephone: (415) 777-2230 Email: scera@cerallp.com cdirksen@cerallp.com</p> <p>C. Andrew Dirksen CERA LLP Prudential Tower 800 Boylston Street, 16th Floor Boston, MA 02199 Telephone: (857) 453-6555 Email: cdirksen@cerallp.com</p> <p>Jeffrey A. Klafter KLAFTER OLSEN & LESSER LLP Two International Drive, Suite 350 Rye Brook, NY 10573 Telephone: (914) 934-9200 Email: jak@klafterolsen.com</p> <p><i>Counsel for Direct Purchaser Plaintiffs Trailercraft Inc. and Advance Diesel Service</i></p>

<p>Patrick W. Michenfelder GRIES LENHARDT MICHENFELDER ALLEN P.L.L.P. 12725 43rd Street NE, Suite 201 St. Michael, Minnesota 55376 Telephone: (763) 497-3099 Facsimile: (763) 497-3639 Email: pat@glmalaw.com</p> <p><i>Counsel for Indirect Purchaser Plaintiff Davidson Transfer LLC</i></p>	
<p><u>/s/ Andrew J. Frackman</u> Andrew J. Frackman O'MELVENY & MYERS LLP Times Square Tower 7 Times Square New York, NY 10036 Telephone: (212) 326-2017 Facsimile: 212-326-2061 Email: afrackman@omm.com</p> <p><i>Counsel for Espar Inc., Espar Products, Inc., and Espar North America, Inc.</i></p>	<p><u>/s/ John Clayton Everett</u> John Clayton Everett MORGAN, LEWIS & BOCKIUS LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004 Telephone: (202) 739-3000 Facsimile: 202-739-3001 Email: jeverett@morganlewis.com</p> <p><i>Counsel for Defendants Webasto Products North America, Inc., and Webasto Thermo & Comfort North America, Inc.</i></p>