

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DOUG LADORE, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

ECOLAB, INC., a Delaware Corporation  
and DOES 1 through 100 inclusive,

Defendants.

Case No. CV 11-9386 FMO (FMOx)

**ORDER**

The court has reviewed and considered all the briefing filed with respect to plaintiffs' Ex Parte Application for Order Re: Trial Management Plan ("Application").<sup>1</sup>

Under the circumstances, the court is persuaded that plaintiffs' Application should be granted. The argument defendant raises with respect to the issue of aggregate damages for the class were considered and rejected by the court in its Order of April 11, 2012. "Courts have continued to sanction the use of statistical evidence to provide damages post- Dukes." (Court's Order of April 11, 2012, at 23).

Based on the foregoing, IT IS ORDERED that:

1. Plaintiffs' Ex Parte Application for Order Re: Trial Management Plan (**Document No. 61**) is granted.

---

<sup>1</sup> Although the court considered all the briefing filed by the parties, the parties are advised that they may not file reply briefs or "supplemental" briefs without leave of court.

1           2. Plaintiffs may present evidence of aggregate class-wide damages by statistical  
2 sampling.

3           3. Plaintiffs may take the depositions of no more than 55 individual class members. The  
4 depositions shall be completed no later than **March 25, 2013**. No class member may be deposed  
5 for more than two hours, exclusive of breaks, with each side allowed one hour of deposition time.

6           4. All fact discovery shall be completed no later than **March 25, 2013**.

7           5. All expert discovery shall be completed by **May 3, 2013**. The parties must serve their  
8 Initial Expert Witness Disclosures no later than **March 29, 2013**. Rebuttal Expert Witness  
9 Disclosures shall be served no later than **April 15, 2013**. The parties should commence expert  
10 discovery shortly after the initial designation of experts, because Local Rules 7-3 and 37-1 require  
11 ample time to meet and confer as well as brief the matters, and because the final pretrial  
12 conference and trial dates will not be continued merely because expert discovery is still underway.

13           6. The parties are reminded that, pursuant to the Court's Order of February 13, 2012, the  
14 parties must complete their settlement conference no later than **February 22, 2013**. If the case  
15 settles, counsel shall file a Notice of Settlement no later than 24 hours after the case is settled,  
16 stating when they expect to file their dismissal papers. Otherwise, **the parties must, no later**  
17 **than 48 hours after the settlement proceeding is completed, file a Status Report Re:**  
18 **Settlement**. The Status Report shall not disclose the parties' settlement positions, *i.e.*, the terms  
19 of any offers or demands. The Status Report shall describe the efforts made by the parties to  
20 resolve the dispute informally, *i.e.*, the occasions and dates when the parties participated in  
21 mediation or settlement conferences. The Status Report shall also include the name of the  
22 Settlement Officer who assisted the parties with their settlement conference.

23           7. Counsel for the parties shall file a memorandum of contentions of fact and law; witness  
24 lists; a joint exhibit list; and motions in limine no later than **May 17, 2013**.

25           8. Counsel for the parties shall file a proposed final pretrial conference order; a pretrial  
26 exhibit stipulation; proposed jury instructions (joint and disputed); proposed verdict forms; a joint  
27 statement of the case; proposed additional voir dire questions, if desired; and oppositions to  
28 motions in limine no later than **May 24, 2013**.

