

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

IN RE: 3M COMBAT ARMS
EARPLUG PRODUCTS
LIABILITY LITIGATION

Case No. 3:19md2885

This Document Relates to All Cases

Judge M. Casey Rodgers
Magistrate Judge Gary R. Jones

**PRETRIAL ORDER NO. 16
MULTI-PLAINTIFF ACTIONS**

A large number of complaints in this MDL join multiple plaintiffs whose “claims arise from different factual predicates” and whose only apparent connection is that they allege injuries caused by the 3M Combat Arms Earplug. *See Peek v. 3M Company*, No. 0:19cv192, ECF No. 16 (D. Minn. Mar. 11, 2019). These plaintiffs do not assert any joint or several right to relief, nor do their alleged injuries arise out of the same transactions or occurrences. *See Fed. R. Civ. P. 20(a)(1)* (permissive joinder of parties). As a result, joinder of these plaintiffs’ cases presents the potential for administrative complications and inefficiencies that can be avoided by adherence to the traditional rule that unrelated claimants must file individual complaints. *See, e.g., In re: Vioxx Prods. Liab. Litig.*, No. 2:05md1657, ECF No. 12181 (E.D. La.

Sept. 5, 2007). For these reasons, the Court concludes that the multi-plaintiff complaints must be severed.¹

Accordingly, it is hereby **ORDERED** as follows:

1. All plaintiffs named in any multi-plaintiff complaint currently pending in this MDL, except derivative plaintiffs, will be severed according to the following procedures.²

a. For multi-plaintiff actions in which no remand motion is currently pending, all plaintiffs, except for the first-named plaintiff, are hereby **DISMISSED WITHOUT PREJUDICE**, with the right to refile an individual short form complaint in the approved form, currently available on the master docket for the MDL at ECF No. 705. For short form complaints filed within 30 days of the date of the dismissal without prejudice pursuant to this Order, the filing date for the short form complaint will relate back to the filing date of the original multi-plaintiff complaint from which the individual plaintiff was severed.

b. For multi-plaintiff actions in which a remand motion is currently pending, the individual plaintiffs may either:

¹ This determination does not apply to multi-plaintiff complaints naming only a derivative plaintiff (*e.g.*, cases in which a spouse asserts a loss of consortium claim). To the extent the Court inadvertently severs and dismisses a plaintiff whose claim is properly joined, that plaintiff should promptly notify the Court and his or her claim will be reinstated.

² The known multi-plaintiff, non-derivative actions are listed on Exhibits A and B.

i. Withdraw the motion to remand within 14 days of the date of this Order, and thereafter be dismissed without prejudice and with the right to file individual complaints in accordance with this Order; or

ii. File an objection to this Order, not to exceed two pages, on the docket for their original multi-plaintiff action by October 25, 2019. Any plaintiffs who object will not be severed until the objection is resolved by the Court.

2. The Court hereby waives the filing fee for any individual plaintiff whose case is (a) currently pending on a multi-plaintiff complaint and (b) dismissed without prejudice pursuant to this Order, and (c) who timely files a short form complaint within 30 days of the dismissal without prejudice. Any short form complaint filed by a severed plaintiff pursuant to this Order will be assigned a separate civil action number by the Clerk.

3. For any multi-plaintiff complaints filed after the date of this Order, each plaintiff will be subject to automatic severance and dismissal without prejudice. All subsequent short form complaints filed by plaintiffs who are severed and dismissed pursuant to this provision must be accompanied by appropriate filing fees and will be assigned separate civil action numbers by the Clerk.

4. Any severed plaintiff who wishes to name as defendants parties who are not named as defendants on the current Master Long Form Complaint must file

an individual complaint in the district court where his or her action may be properly filed and await transfer by the Judicial Panel on Multidistrict Litigation.

5. Any complaint (whether short or long form) filed by a severed plaintiff must reference the original multi-plaintiff complaint, its civil action number, and its original filing date. This information must be added to the complaint immediately under the civil action number for the newly filed individual case.

7. The Clerk is directed to file a copy of this Order on the master docket for the MDL, and also on the individual docket for each action refiled by a severed plaintiff pursuant to this Order, whether the action is direct filed in this district or transferred here by the Panel.

8. It is the parties' responsibility to review and abide by all orders entered in this MDL. All orders on the master docket for the MDL may be accessed through the CM/ECF system and key orders are available on the Court's public website at <http://www.flnd.uscourts.gov/mdl2885>.

SO ORDERED, on this 15th day of October, 2019.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE

Exhibit A

Multi-Plaintiff Actions with No Pending Motions to Remand

3:19cv0598	3:19cv0739	3:19cv0793
3:19cv0864	3:19cv0868	3:19cv0872
3:19cv0893	3:19cv1023	3:19cv1063
3:19cv1088	3:19cv1096	3:19cv1150
3:19cv1170	3:19cv1171	3:19cv1173
3:19cv1178	3:19cv1179	3:19cv1180
3:19cv1186	3:19cv1187	3:19cv1188
3:19cv1189	3:19cv1206	3:19cv1366
3:19cv1372	3:19cv1375	3:19cv1376
3:19cv1377	3:19cv1378	3:19cv1379
3:19cv1380	3:19cv1381	3:19cv1382
3:19cv1383	3:19cv1384	3:19cv1385
3:19cv1386	3:19cv1387	3:19cv1388
3:19cv1389	3:19cv1390	3:19cv1391
3:19cv1402	3:19cv1425	3:19cv1511
3:19cv1519	3:19cv1525	3:19cv1538
3:19cv1695	3:19cv1858	3:19cv1937
3:19cv2055	3:19cv2281	3:19cv2939
3:19cv3159	3:19cv3185	3:19cv3188
3:19cv3193	3:19cv3212	3:19cv3214

3:19cv3248	3:19cv3249	3:19cv3250
3:19cv3251	3:19cv3260	3:19cv3261
3:19cv3262	3:19cv3263	3:19cv3264
3:19cv3265	3:19cv3266	3:19cv3267
3:19cv3268	3:19cv3269	3:19cv3270
3:19cv3271	3:19cv3272	3:19cv3273
3:19cv3274	3:19cv3275	3:19cv3276
3:19cv3277	3:19cv3279	3:19cv3280
3:19cv3283	3:19cv3325	3:19cv3326
3:19cv3327	3:19cv3328	3:19cv3329
3:19cv3330	3:19cv3331	3:19cv3332
3:19cv3333	3:19cv3334	3:19cv3552
3:19cv3553		

Exhibit B

Multi-Plaintiff Actions with Pending Motions to Remand

3:19cv2957	3:19cv2962	3:19cv2964
3:19cv3058	3:19cv3059	3:19cv3065
3:19cv3066	3:19cv3067	3:19cv3068
3:19cv3069	3:19cv3070	3:19cv3072
3:19cv3073	3:19cv3074	3:19cv3075
3:19cv3076	3:19cv3077	3:19cv3078
3:19cv3079	3:19cv3080	3:19cv3081
3:19cv3082	3:19cv3126	3:19cv3127
3:19cv3130	3:19cv3131	3:19cv3132
3:19cv3133	3:19cv3134	3:19cv3135
3:19cv3136	3:19cv3137	3:19cv3139
3:19cv3143	3:19cv3144	3:19cv3145
3:19cv3146	3:19cv3151	3:19cv3152
3:19cv3154	3:19cv3156	3:19cv3157
3:19cv3158	3:19cv3160	3:19cv3180
3:19cv3181	3:19cv3182	3:19cv3183
3:19cv3184	3:19cv3186	3:19cv3187
3:19cv3189	3:19cv3190	3:19cv3191
3:19cv3194	3:19cv3195	3:19cv3196
3:19cv3213	3:19cv3215	3:19cv3216

3:19cv3217

3:19cv3218

3:19cv3219

3:19cv3220

3:19cv3221

3:19cv3222

3:19cv3236

3:19cv3243

3:19cv3244

3:19cv3245

3:19cv3246

3:19cv3247

3:19cv3281

3:19cv3282

3:19cv3324

3:19cv3373