

**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. 17
ORDER GOVERNING ADOPTION OF MASTER COMPLAINT
AND SHORT FORM COMPLAINT FOR FILED CASES**

1. This Order applies to all product liability cases currently pending in MDL No. 2885 and to all related actions that have been or will in the future be originally filed in, transferred to, or removed to this Court and assigned thereto (collectively, “these MDL proceedings”). This Order is binding on all Parties and their counsel in all such cases.
2. In light of the number of product liability complaints filed to date and likely to be filed in the future in these MDL proceedings, and the inefficiencies of drafting those complaints and individual answers to those complaints, and also in order to streamline the process for the Court’s consideration of dispositive motions, the Parties have agreed to the use of master pleadings. This Order is not intended to alter the applicable provisions of the Federal Rules of Civil Procedure or the Local Rules of this Court, except as otherwise provided herein or in any subsequent Pretrial Order.

3. The Plaintiffs' Steering Committee ("PSC") has filed a Master Complaint on behalf of all Plaintiffs asserting personal injury and product liability claims in these MDL proceedings. *See* ECF No. 704.
4. The Plaintiffs' Steering Committee ("PSC") has filed a Short Form Complaint on behalf of all Plaintiffs asserting personal injury and product liability claims in these MDL proceedings, which is an abbreviated form that Plaintiffs will complete in lieu of filing standalone complaints. *See* ECF No. 705.
5. All Plaintiffs with a case pending in this MDL as of the date of this Order must file a Short Form Complaint within 20 days of the date of this Order.
6. Any Plaintiff whose case becomes part of this MDL after the date of this Order, either by a direct filing and assignment to this Court (if permitted by subsequent order of the Court) or by transfer from another district or from another judge in this district, must file a Short Form Complaint within 20 days from the date of transfer or, if originally filed in this district, assignment to this Court.
7. All future cases directly filed into MDL 2885 following entry of this Order must use the Short Form Complaint.
8. For purposes of the application of the statutes of limitation and/or repose, a Plaintiff will be deemed to have filed his or her complaint as of the date

of filing of that Plaintiff's original complaint, not the date of filing of the Master Complaint or Short Form Complaint.

9. There must be a separate Short Form Complaint filed for each individual plaintiff. No plaintiff may directly file a non-short form complaint in this MDL. In the event that any plaintiff was a member of a multi-plaintiff complaint prior to transfer this MDL, each plaintiff must file a separate short form complaint under a separate docket number.
10. By October 31, 2019, the Defendants named in the Master Complaint must file a Master Answer on the MDL docket.
11. As of the date on which each Defendant's Master Answer is filed, it will be deemed to have been filed in every current or future case against that Defendant in the MDL proceedings, without any further action required by that Defendant.
12. The adoption of the Master Answer in every case is without prejudice to Defendants later moving to dismiss certain counts alleged in the Master Consolidated Complaint (at the appropriate time in any individual Plaintiff's action), asserting any affirmative defenses, filing an Amended Answer to address specifically any individual Complaints described below, or otherwise challenging the sufficiency of any claim or cause of action in any Complaint under the applicable state's law, including cases that may

be selected for inclusion in a discovery pool or bellwether trial pool. Any proposed Order submitted to this Court for a process of selecting cases for inclusion in a discovery pool or bellwether trial pool must include a proposed procedure for the filing of dispositive motions applicable to those cases. Furthermore, by agreeing to the procedures for filing the Master Consolidated Complaint and Short Form Complaints, Defendants have not agreed to or admitted the allegations set forth in those documents, nor have Defendants conceded or waived their right to dispute the legal validity of the claims alleged therein.

13. As set forth herein, after the Master Answer has been filed in this MDL No. 2885, it will be deemed adopted in every case. As a result, following the filing of the Master Answer, any Plaintiff who wishes to voluntarily dismiss any case filed in or transferred to this MDL must comply with Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

DONE AND ORDERED, on this 16th day of October, 2019.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE