

**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. 26

1. Phase 1 Discovery and Dispositive Motions

Discovery on issues related to Defendants' federal affirmative defenses is ongoing and no deadline will be imposed for its completion. To the extent either side wishes to file a dispositive motion on the merits of a particular affirmative defense, that motion must be filed by **April 1, 2020**, with responses due by **April 14, 2020** and replies due by **April 21, 2020**.¹ This will be the parties' only opportunity to move for summary judgment on the federal government contractor defense—neither side will be permitted to so move in an individual case.

2. Initial Bellwether Process

On February 25, 2020, the initial bellwether selection process will be complete, resulting in a pool of 20 bellwether cases and six alternates. The parties

¹ The parties have advised the Court that they will not offer expert testimony in support of their respective dispositive motions on the affirmative defenses. The Court will further discuss this issue with them at the next case management conference.

are conferring and will present a proposed schedule for case-specific discovery and the filing of *Daubert* and dispositive motions, if any, for the initial bellwether cases, at the case management conference on February 21, 2020. Assuming at least 20 bellwether cases remain after case-specific discovery and dispositive motions practice, the Court will randomly select four pools of five cases each to proceed with bellwether trials. The first bellwether trial(s) will be held in April 2021, with *Daubert* and dispositive motions due in January 2021. The Court is considering the possibility of consolidating some number of cases for trial and trying other cases individually; the parties will be permitted an opportunity to brief the consolidation issue before a final decision is made.

SO ORDERED, on this 11th day of February, 2020.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE