

**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 the Wave  
Cases

Judge M. Casey Rodgers  
Magistrate Judge Gary R. Jones

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**CASE MANAGEMENT ORDER NO. 49**  
**(Amended Discovery & Wave Schedule)**

The Court adopts the following amended discovery and Wave schedule which was jointly proposed by the parties.<sup>1</sup> Pursuant to the Parties' agreement, and in light of the Aeero Defendants filing for Ch. 11 bankruptcy, 3M and Plaintiffs have agreed to the following revisions to the applicable deadlines in this MDL.<sup>2</sup> The Parties have agreed to (1) continue all Wave Depositions (Plaintiff, Fact and Expert) scheduled for the next three weeks (i.e., anything between July 28, 2022 and August 17, 2022) with the exception of those depositions that are the subject of this Court's order dated

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<sup>1</sup> All Parties reserve rights relating to the Motion, now pending in the United States Bankruptcy Court for the Southern District of Indiana, Case No. 22-02890, Adv. Proc. No. 22-50059, for Declaratory and Injunctive Relief (I) Declaring that the Automatic Stay Applies to Certain Actions Against a Non-Debtor or (II) Preliminarily Enjoining Certain Against a Non-Debtor and (III) Granting a Temporary Restraining Order Pending an Order on the Preliminary Injunction.

<sup>2</sup> For the avoidance of doubt, this extension also applies to the Reply in support of Defendants' Motion to Compel Wave Plaintiffs' Data and Electronically Stored Information Responsive to Defendants' Request for Production No. 10 [Dkt. 3265] and the discovery responses in *Milson v. 3M*, Case No. 7:20-cv-30426.

July 28, 2022 [Dkt. 3341]; and (2) continue the Wave discovery deadlines for any dates that have not already expired by three weeks (see chart below for newly applied deadlines). This agreement does not impact the Wave 1 Summary Judgment and Daubert Response or Venue Dispute briefing deadlines on August 9.

The specific upcoming deadlines which are amended pursuant to the parties agreement include:

Prior Date	Deadline	Agreed Upon Amended Date
Ongoing	Wave 2 - Expert deposition confidentiality designations due within 30 days of deposition; errata due within 45 days of deposition	21 days later than otherwise due
8/8/2022	Wave 3 - Responses to discovery due w/in 30 days of receipt (8/8 latest if served on 7/7) [CMO 47]	8/29/2022
8/15/2022	Wave 2 - Defense Expert Disclosure Deadline [CMO 34; Amended per CMO 45]	9/5/2022
8/21/2022	Wave 2 - M&C Deadline re venue recommendations [CMO 34]	9/11/2022
8/25/2022	Wave 2 - Plaintiff Rebuttal Expert Disclosure Deadline [CMO 34; Amended per CMO 45]	9/15/2022
9/6/2022	Wave 3 - Plaintiff Deposition Deadline [CMO 47]	9/27/2022
9/10/2022	Wave 2- Joint Venue Recommendations Due to Court [CMO 34]	10/1/2022
9/26/2022	Wave 2 - Expert Deposition Deadline [CMO 34]	10/17/2022
9/27/2022	Wave 3 - DME Reports due to Plaintiff (14 days prior to P Expert Disclosure Deadline or w/in 7 days of Defendants receiving results, whichever is earlier) [CMO 47]	10/18/2022

Prior Date	Deadline	Agreed Upon Amended Date
9/29/2022	Wave 2 - Deadline to notify opposing counsel of exhibits previously produced as Confidential to be filed under seal as attachments to COL, <i>Daubert</i> or dispositive motions (7 days before 10/6 filing deadline); If Plaintiff believes any Case Specific Expert report contains sensitive mental health info, Plaintiff must provide Defendants with a redacted copy of the report no later than 7 days prior to the 10/6 filing deadline -- Wave 2 [Order re Sealing]	10/20/2022
9/30/2022	Wave 3 - Fact Deposition Deadline [CMO 47]	10/21/2022
9/30/2022	Wave 3 - Fact Discovery Deadline [CMO 47]	10/21/2022
10/3/2022	Wave 2 - Deadline to notify opposing counsel of agreement with exhibits to be filed under seal as attachments to COL, <i>Daubert</i> or dispositive motions (3 days b/f filing deadline) -- Wave 2 [Order re Sealing]	10/24/2022
10/6/2022	Wave 2 - <i>Daubert</i> motions and dispositive motions Deadline [CMO 34]	10/27/2022
10/6/2022	Wave 2 - Choice of Law Motions Deadline [CMO 34]	10/27/2022
10/7/2022	Wave 2 - BrownGreer will provide unsealed versions of briefs/exhibits to COL, <i>Daubert</i> or dispositive motions to the court (24 hours after filing deadline) -- Wave 2 [Order re Sealing]	10/28/2022
10/10/2022	Wave 2 - Deadline to file motion to seal with respect to exhibits re COL, <i>Daubert</i> or Dispositive Motions (4 days after filing deadline); Plaintiff must file motion to seal with respect to the exhibits/Case Specific expert reports no later than 4 days after the filing deadline -- Wave 2 [Order re Sealing]	10/31/2022
10/11/2022	Wave 3 - Plaintiff Expert Disclosure Deadline [CMO 47]	11/1/2022

Prior Date	Deadline	Agreed Upon Amended Date
10/25/2022	Wave 2 - Responses to <i>Daubert</i> and Dispositive motions Deadline (replies only by permission of the Court) [CMO 34]	11/15/2022
11/10/2022	Wave 3 - Defense Expert Disclosure Deadline [CMO 47]	12/1/2022
11/21/2022	Wave 3 - Plaintiff Rebuttal Expert Disclosure Deadline [CMO 47]	12/12/2022
11/21/2022	Wave 3 - M&C Deadline re venue recommendations [CMO 47]	12/12/2022
12/9/2022	Wave 3 - Joint Venue Recommendations Due to Court [CMO 47]	12/30/2022
1/10/2023	Wave 3 - Expert Deposition Deadline [CMO 47]	1/31/2023
1/13/2023	Wave 3 - Deadline to notify opposing counsel of exhibits previously produced as Confidential to be filed under seal as attachments to COL, <i>Daubert</i> or dispositive motions (7 days b/f filing deadline); If Plaintiff believes any Case Specific Expert report contains sensitive mental health info, Plaintiff must provide Defendants w/ a redacted copy of the report no later than 7 days prior to the filing deadline -- Wave 3 [Order re Sealing]	2/3/2023
1/17/2023	Wave 3 - Deadline to notify opposing counsel of agreement with exhibits to be filed under seal as attachments to COL, <i>Daubert</i> or dispositive motions (3 days b/f filing deadline) -- Wave 3 [Order re Sealing]	2/7/2023
1/18/2023	Wave 3 - Opposing Counsel will not publicly file Confidential documents re COL, <i>Daubert</i> or dispositive motions still subject to protective order until after deadline to notify opposing counsel of continuing confidentiality claims (2 days prior to the filing deadline) -- Wave 3 [Order re Sealing]	2/8/2023

Prior Date	Deadline	Agreed Upon Amended Date
1/20/2023	Wave 3- <i>Daubert</i> and Dispositive Motions Deadline [CMO 47]	2/10/2023
1/20/2023	Wave 3- Choice of Law Motions Deadline [CMO 47]	2/10/2023
1/21/2023	Wave 3- BrownGreer will provide unsealed versions of briefs/exhibits to COL, <i>Daubert</i> or dispositive motions to the court (24 hours after filing deadline) -- Wave 3 [Order re Sealing]	2/11/2023
1/24/2023	Wave 3- Deadline to file motion to seal with respect to exhibits re COL, <i>Daubert</i> or Dispositive Motions (4 days after filing deadline); Plaintiff must file motion to seal with respect to the exhibits/Case Specific expert reports no later than 4 days after the filing deadline -- Wave 3 [Order re Sealing]	2/14/2023
2/8/2023	Wave 3- Responses to <i>Daubert</i> motions and dispositive motions Deadline (replies only by permission of the Court) [CMO 47]	3/1/2023

**DONE AND ORDERED** in Chambers at Pensacola, Escambia County, Florida, this 29th day of July, 2022.

*M. Casey Rodgers*

**M. CASEY RODGERS**  
**UNITED STATES DISTRICT JUDGE**