

**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. 14
Science Day Agenda**

Science Day is scheduled for **Monday, August 26, 2019 beginning at 9:00 a.m. CST**. The following procedures will govern Science Day:

1. At the outset of the Science Day proceeding, each side (via its attorneys) will briefly summarize its theory of the case (or theory of defense) in terms of the alleged product defect. Each side will be allotted up to 15 minutes for this presentation. Plaintiffs will give their opening summary first, followed by Defendants. The parties may use demonstratives, such as PowerPoint presentations, during their opening summaries.

2. Following the initial case summaries, each side will present up to three speakers to provide general information about certain scientific aspects of this litigation, including: (a) sound properties and measurement, (b) how sound is perceived by the human ear, (c) the science of hearing loss, (d) hearing examination protocols, including methods for causal attribution of hearing loss, (e) hearing

protection devices generally and their evolution, (f) considerations regarding selection of hearing protection devices, (g) standards and procedures for testing hearing protection devices; and/or (h) any unique testing protocols that were required for the 3M Combat Arms Earplug. Each side will be allotted up to 2.25 hours for these presentations. Defendants' speakers will make their presentations first, followed by Plaintiffs' speakers. The format may be lecture-style presentations that may incorporate the use of PowerPoints or other demonstrative aids. The parties' attorneys will be allowed to conduct a direct or guided direct examination of their own speakers in order to focus the presentations, however each sides' speakers may not be questioned by opposing counsel or by other speakers. The parties must disclose all planned speakers to the Court and to one another at least seven days before the proceeding.

3. The admission of, or specific reference to, merits evidence—such as evidence about product-specific testing and/or results, whether 3M or its predecessor deviated from any testing protocol, labeling frameworks and/or the adequacy of the label for the Combat Arms Earplug, company documents, and/or government FOIA materials—will not be permitted at Science Day, including during the parties' opening summaries and during the speakers' presentations.

4. The parties will not exchange any demonstratives to be used at Science Day. The parties may not use anything their opponent(s) say or use for Science Day

for any other purpose besides Science Day. No transcript(s) of this proceeding, PowerPoint(s), or other demonstrative aids will be discoverable, admissible, used in any fashion for impeachment purposes or for collateral attack on any presenter, shared beyond the instant litigation, or used for any purpose other than for this Court's benefit to gather informal knowledge at Science Day.

DONE and **ORDERED**, on this 9th day of August, 2019.

M. Casey Rodgers

M. CASEY RODGERS

UNITED STATES DISTRICT JUDGE