

**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

CASE MANAGEMENT ORDER NO. 19

The Nineteenth Case Management Conference (CMC) in this matter was held on January 24, 2021. This Order serves as a non-exhaustive recitation of the key points of discussion during the conference.

I. First Bellwether Trial

The first bellwether trial in Group A, a consolidated trial of Case Nos. 7:20cv137 (Luke and Jennifer Estes), 7:20cv104 (Lewis Keefer), and 7:20cv131 (Stephen Hacker) will begin on March 29, 2021 and conclude by April 27, 2021. The parties are jointly working on a confidential juror questionnaire, which will be sent out to the prospective jurors with a return date of no later than March 23, 2021.

The parties are meeting and conferring on a trial clock, not to include voir dire. Simultaneously, the undersigned will also confer with Judge Jones and Judge Herndon on how time at trial should be allocated between the parties and will let the parties know as soon as a decision is reached, should the parties fail to resolve disputes regarding the trial clock on their own. The undersigned will also consider

whether trial presentations will begin on the afternoon of Monday, March 29, 2021, or the following morning of Tuesday, March 30, 2021, and will let the parties know.

The parties are meeting and conferring on a protocol for video deposition designations. The parties should also meet and confer, with the assistance of Judge Herndon, on a process for calling witnesses who are available to provide live testimony.

The voir dire process was discussed extensively with the parties at the conference and is set forth in the conference transcript. During jury selection, attorney voir dire will not be permitted, except in certain limited circumstances as directed by the Court. The parties will meet and confer on whether they would prefer the Court rule on for-cause challenges immediately following individual voir dire and before a short recess, or after the recess. Other specific procedures related to jury selection are set forth in the Court's Order Setting Trial.

The parties will also meet and confer on extra jury pay and report back to the Court. Additionally, the parties will provide the Court with complete Pattern Jury Instructions from each Plaintiff's jurisdiction.

II. Second and Third Bellwether Trials

The individual trials in Case No. 7:20cv94 (Dustin McCombs) and Case No. 7:20cv39 (Lloyd Baker) are scheduled to begin on May 17, 2021 and June 7, 2021,

respectively. Deposition designations and motions in limine for these two cases are due by April 16, 2021.

III. Pretrial Motions for Group A

Per Pretrial Order No. 63, the parties are meeting and conferring with Judge Herndon to resolve disputes underlying potential motions in limine. Should disputes remain unresolved such that motions in limine will be filed, Judge Herndon will recommend to the Court the word count necessary to brief any remaining disputes.

Additionally, pending before the Court are the parties' omnibus *Daubert* motions. The Court will soon inform the parties whether a *Daubert* hearing on Friday, February 5, 2021 will be necessary.

IV. Bellwether Trial Groups B and C

All Group B deadlines following the close of expert discovery are suspended. All Group C deadlines following the close of fact discovery are also suspended. However, any presently scheduled Defense Medical Exams should proceed as scheduled. The parties will meet and confer on new pretrial schedules for Groups B and C, including proposed trial dates for the first Group B and C trials, and should also consider choice-of-law briefing processes and any related stipulations.

V. Upcoming Case Management Conferences

Case management conferences are scheduled on the following upcoming dates at 10AM central:

February 19, 2021

March 19, 2021

SO ORDERED, on this 25th day of January, 2021.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE