

**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

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**ORDER OF APPOINTMENT**

Pursuant to Federal Rule of Civil Procedure 53 and its inherent authority, the Court hereby appoints retired Judge David Herndon as a Special Master in this proceeding for the purpose of assisting the Court in moving the affirmative defenses into a posture for dispositive motion practice and to do so as efficiently and expeditiously as possible. More specifically, the Special Master will help facilitate and manage discovery from the United States Department of Defense and Department of Justice. As part of his duties, the Special Master is entitled to interact with the parties and federal government officials to explore ways to manage and expedite discovery from the United States that is reasonably necessary and relevant to the claims and defenses of the parties in this case, and to report to the Court and/or the parties *ex parte* regarding the status of such efforts. This process is to conclude with a recommendation for a schedule by which the affirmative defense issues will be addressed by the Court. However, this appointment does not contemplate the

need for any formal report and recommendation from the Special Master to the Court.

The Special Master must maintain normal billing records of time spent on this matter with reasonably detailed descriptions of his activity. If requested by the Court, the Special Master must submit a formal report in writing for electronic filing on the case docket. The Special Master should incur only such fees and expenses as may be reasonably necessary to fulfill his duties under this Order or such other orders as the Court may issue. Fees and expenses for the Special Master will be shared equally among the Plaintiffs' Lead Counsel and Defendants' Counsel.

The Court has previously provided Plaintiffs' Lead Counsel and Defendants' Counsel with notice and an opportunity to be heard regarding its intent to appoint a special master to assist with the above issues. The parties have agreed that Judge Herndon is fair and impartial, and that his appointment as Special Master will be helpful in facilitating discovery from the United States. As such, Judge Herndon is directed to proceed with all reasonable diligence to fulfill the duties set forth herein.

**DONE AND ORDERED**, on this 15th day of October, 2019.

*M. Casey Rodgers*

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