

**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:  
*Estes*, 7:20cv137  
*Hacker*, 7:20cv131  
*Keefer*, 7:20cv104

Judge M. Casey Rodgers  
Magistrate Judge Gary R. Jones

---

**NOTICE FOR PRETRIAL CONFERENCE**

Pursuant to Pretrial Order No. 68 (ECF No. 1647) and the Order Setting Trial and Pretrial Schedule (ECF No. 1629), the pretrial conference for the consolidated trial in the above-captioned matters will begin on Monday, March 15, 2021 at 8:30AM. The Court will proceed with discussion on the following topics, in the order listed:

- I. Causation in regards to the government fault defense
- II. Motions in limine to be argued

Defendants':

- a. Evidence regarding Defendant's financial condition, profit margins, net worth, compensation packages of Defendants' employees, private equity interests in Aearo and any profit from the sale of Aearo to 3M (VII)
- b. Evidence of alleged injuries of others, including the number of claimants (X)

- c. Evidence related to Dr. Fallon's downloading of documents (XII)
- d. Assertions of privilege (XXIV)
- e. Inflammatory comments regarding DoD and VA's record-keeping practices (XXV)

Plaintiffs':

- a. Motion to exclude evidence or argument that military of government had ultimate responsibility over design or labeling, prohibited instructions, or provided design "specifications" in advance of the development of the CAEv2 (D1)
- b. Motion to bar untimely disclosed evidence of 3M's knowledge of testing (D2)
- c. Motion to exclude evidence or argument that Plaintiffs recovery should be impacted by disability or other collateral benefits or otherwise affected by operation of law (G3)
- d. Motion to exclude VA Compensation & Pension documents and determinations (G4)
- e. Motion to exclude unattributed statements in medical records (G6)
- f. Motion to exclude evidence or argument relating to erectile dysfunction, virginity, fertility, Viagra, or other issues relating to sex between Mr. and Mrs. Estes (H1)
- g. Motion to exclude evidence or argument that Estes was diagnosed with or suffers from clinical anxiety or depression (H4)
- h. Motion to exclude evidence of irrelevant and prejudicial events in Hacker's life (I3)
- i. Motion to exclude evidence of Hacker's family issues (I4)
- j. Motions to exclude evidence and argument relating to Keefer's alleged bad acts (J1)
- k. Motions to exclude evidence and argument relating to Keefer's past job performance (J2)

- I. Motion to exclude evidence and argument relating to the reasons for Keefer's divorces (J3)

III. Joint Pretrial Stipulation

IV. Witnesses

The parties should be prepared to address Plaintiffs' objection to Dr. Kevin Michael's late addition to Defendants' witness list, as well as whether the parties will be calling Kara Cave to testify or designating her deposition testimony.

V. Deposition designations

VI. Exhibits and objections to exhibits

VII. Logistics

The parties should be prepared to discuss how they plan to present exhibits to remote and in-person witnesses (i.e. electronically, paper, etc.). Other logistical matters will also be discussed.

VIII. Jury

**SO ORDERED** this 11th day of March, 2021.

*M. Casey Rodgers*

---

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