

**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**

On February 16, 2022, the Court held a Case Management Conference to discuss matters related to the Wave process. From that discussion, it is clear to the undersigned that although the parties have been working diligently to resolve discovery disputes that arise in the Wave cases with the assistance of Judge Herndon, scheduling and logistical conflicts are becoming a challenge. For example, some number of plaintiffs have traveled to appear for their Defense Medical Exam (“DME”), only to find on arrival that no doctor was present to perform the exam. There have also been instances where plaintiffs have outright failed to appear for their scheduled depositions.

While the Court recognizes that some setbacks are inevitable in a discovery effort of this magnitude, it is critical that the problems be addressed promptly and proactively. The Wave process is an extensive, thoughtfully devised management tool created to facilitate pretrial discovery for the enormous inventory of cases in

this litigation, and it is imperative that the Wave timelines not be disrupted. Given the fact that by May there will be approximately 1,500 cases in the Wave discovery process, the undersigned has determined that the appointment of a special master is necessary for the efficient and effective management of the Wave process.<sup>1</sup>

Accordingly, under its inherent authority and pursuant to Federal Rule of Civil Procedure 53(a)(1)(C), the Court hereby appoints Adriane Theis of Reisman Karron Greene LLP as a Special Master in this litigation for the purpose of assisting with the management of the Wave process. The Court is aware of Ms. Theis' credentials and experience, and finds her well qualified to perform this work. Special Master Theis will be responsible for overseeing the Wave process and ensuring that the parties are abiding by the scheduling deadlines as set out in the Court's Wave orders. More specifically, Special Master Theis will shepherd the Wave cases through the discovery process, in part, by working with the parties to coordinate the scheduling of DMEs and depositions, and the production of expert reports. As part of her duties, Special Master Theis will provide the Court with regular status reports on the Wave process and will apprise the Court of any issues that threaten the Wave timeline so that they may be swiftly resolved. Special Master Theis may communicate *ex parte* with the parties and/or with the Court.

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<sup>1</sup> Wave Order #1, ECF No. 2304 was entered on November 22, 2021; Wave Order #2 will be entered on February 22, 2022; and Wave Order #3 will be entered in May. Each order selects 500 cases for Wave discovery.

The Special Master must maintain normal billing records of time spent on this matter with reasonably detailed descriptions of her 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 her 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' Leadership Counsel and Defendants' Counsel. As such, Ms. Theis is directed to proceed with all reasonable diligence to fulfill the duties set forth herein.

**DONE** and **ORDERED**, on this 18th day of February, 2022.

*M. Casey Rodgers*

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