

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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WARMING PRODUCTS
LIABILITY LITIGATION

MDL No. 15-md-2666 (JNE/DTS)

**AMENDED
SCHEDULING ORDER**

This Document Relates to:

Skinner v. 3M Company, et al., 17-cv-2149;

Jones v. 3M Company, et al., 23-cv-1425;

Pelican v. 3M Company, et al., 23-cv-1818;

The following schedule will govern these proceedings unless modified pursuant to Local Rule 16.3.

SUMMARY OF IMPORTANT DATES:

Fact Discovery Completion Deadline: September 3, 2024

Expert Deadlines

Disclosures: P –September 3, 2024 D – October 1, 2024

Depositions: **December 2, 2024**

Dispositive Motion Deadline to **file, serve: December 30, 2024**

Trial Ready Date: March 3, 2025

For the past year the parties to this MDL have been engaged in settlement discussions with the assistance of Special Master, the Honorable James M. Rosenbaum. The parties and the Special Master have determined that additional trials are necessary to facilitate settlement of the MDL. The parties have jointly selected these six cases for trial. The utility of these cases in facilitating potential settlement requires their prompt and efficient resolution.

Therefore, in order to facilitate the just, speedy and inexpensive determination of these matters as envisioned by F.R.C.P. 1, the Court makes the following order.

MOTION PRACTICE

All motions, except motions to compel discovery, shall be filed after the close of discovery herein. The Court will not hear motions to dismiss under Rule 12(b)(6) or Motions for Judgment on the Pleadings under Rule 12(c). Any issues that a party wishes to raise on such motions may be raised in motions brought pursuant to Rule 56 after the opposing party has had a full opportunity for discovery. (Accordingly, by way of example,

motions premised on the statute of limitations shall be heard as motions for summary judgment.) Both parties may fully brief and argue issues related to choice of law, the discovery rule and punitive damages based upon a fully developed factual record after discovery. To the extent that factual matters relevant to such issues are not pleaded in the short form complaint no amendment to the complaint will be necessary. All such factual matters shall be presented as part of the Rule 56 motions. Plaintiffs need not have pleaded a claim for punitive damages in their complaint in order to seek such damages at trial. Defendants shall be entitled to contest any punitive damages claim (and whether it should be presented to the jury) as part of a motion for summary judgment.

Daubert motions will be permitted only on issues of specific causation, not general causation.

The following discovery limitations shall apply.

FACT DISCOVERY

1. Written Discovery
 - A. No more than a total of 35 interrogatories, counted in accordance with Rule 33(a), shall be served by either side.
 - B. No more than 50 document requests shall be served by each party. Objections to document requests must meet the requirements of amended Rule 34(b)(2)(B).
 - C. No more than 50 requests for admissions shall be served by each side.
2. No more than 10 factual depositions, excluding expert witness depositions, shall be taken by each side.
3. No more than 1 Rule 35 medical examinations shall be completed on or before September 3, 2024.
4. The parties must commence fact discovery procedures in time to be completed on or before September 3, 2024.

EXPERT DISCOVERY

1. Disclosure of the identities of case specific expert witnesses under Rule 26(a)(2)(A), the full disclosures required by Rule 26(a)(2)(B) (including the written report prepared and signed by each expert witness), and the full disclosures required by Rule 26(a)(2)(C), shall be made as follows:

Identification and Rule 26(a)(2)(B) and 26(a)(2)(C) disclosures by Plaintiff on or before September 3, 2024.

Identification and Rule 26(a)(2)(B) and 26(a)(2)(C) disclosures by Defendant on or before October 1, 2024.

2. All expert discovery, including expert depositions, must be completed by **December 2, 2024**.

PRESERVATION OF DOCUMENTS AND ELECTRONIC DISCOVERY

The parties have discussed the scope of discovery, including relevance and proportionality and any issues about preserving discoverable information. The parties have also discussed electronic discovery and agree upon the following:

The parties do not foresee that electronic discovery will be a significant issue in this case and have represented they will work together to resolve any disputes.

NON-DISPOSITIVE MOTIONS

A. Dates

All non-dispositive motions relating to *fact* discovery must be filed and served by September 4, 2024.

All non-dispositive motions relating to *expert* discovery must be filed and served by **January 2, 2025**.

DISPOSITIVE MOTIONS

All dispositive motions and supporting documents (notice of motion, motion, memorandum of law, affidavits and proposed order) shall be **filed and served** on or before **December 30, 2024**. Counsel for the moving party shall call Judge Ericksen's Courtroom Deputy, Cathy Cusack, at 612-664-5890 to schedule the hearing for the dispositive motion. Upon receipt of a hearing date (or an instruction that the hearing will take place at a date and time to be determined by the Court), the moving party shall immediately file and serve the dispositive motion and supporting documents.

The parties shall comply with Local Rule 7.1 and the Electronic Case Filing Procedures Guide, Civil Cases. When a motion, response or reply brief is filed on ECF, two paper courtesy copies of the pleading and all supporting documents shall be mailed or delivered to Courtroom Deputy Cathy Cusack at the same time as the documents are posted on ECF.

PRIVILEGE/PROTECTION

The parties agree to follow the procedure set forth in Fed. R. Civ. P. 26(b)(5)(B) regarding information produced in discovery that is subject to a claim of privilege or protection as trial-preparation material. Pursuant to Fed. R. Evid. 502, the inadvertent production of any documents in this proceeding shall not constitute a waiver of any privilege or protection applicable to those documents.

JOINT MOTIONS REGARDING CONTINUED SEALING PURSUANT TO LR 5.6

See separate order on Joint Sealing.

TRIAL

These cases shall be ready for a jury trial as of March 3, 2025. The parties estimate that trial of each matter will take 10 days.

Dated: October 16, 2024

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge