

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: 3M COMBAT ARMS EARPLUG  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2885

**ORDER VACATING CONDITIONAL TRANSFER ORDER**

**Before the Panel:**\* Plaintiff in the action listed on Schedule A (*Graves*) moves under Panel Rule 7.1 to vacate our order that conditionally transferred the action to the Northern District of Florida for inclusion in MDL No. 2885. Defendants 3M Company and Aearo Technologies, LLC, oppose the motion to vacate.

After considering the argument of counsel, we will grant the motion to vacate. The actions in MDL No. 2885 arise out of allegations that defendants' Combat Arms earplugs were defective, causing plaintiffs to develop hearing loss and/or tinnitus. *See In re 3M Combat Arms Earplug Prods. Liab. Litig.*, 366 F. Supp. 3d 1368 (J.P.M.L. 2019). Like many plaintiffs in MDL No. 2885, the *Graves* plaintiff alleges that he purchased Combat Arms earplugs and, because defendants failed to warn him of the proper insertion technique, he now suffers from hearing loss and tinnitus. *Graves*, therefore, shares factual questions with the MDL No. 2885 cases. But the District of Minnesota granted plaintiff's motion to remand to state court on March 23, 2020, and defendants have appealed the ruling to the Eighth Circuit. Transferring *Graves* to the MDL at this time would undermine efficiency by complicating its procedural posture. If *Graves* remains in federal court, the parties should renotify the Panel of the action's status as a potential tag-along action. *See* Panel Rules 1.1(h), 7.1 and 7.2.

IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-46" is vacated with respect to this action.

PANEL ON MULTIDISTRICT LITIGATION

---

\* Judge Karen K. Caldwell took no part in the decision of this matter.

-2-

A handwritten signature in blue ink, appearing to read "Ellen Segal Huvelle", is written over a horizontal line.

Ellen Segal Huvelle  
Acting Chair

R. David Proctor  
Nathaniel M. Gorton  
David C. Norton

Catherine D. Perry  
Matthew F. Kennelly

**IN RE: 3M COMBAT ARMS EARPLUG  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2885

**SCHEDULE A**

District of Minnesota

GRAVES v. 3M COMPANY, ET AL., C.A. No. 0:19-03094