

Stay Lifted in Military Earplugs National Litigation

Judge says lawsuits in CAEv2 litigation may proceed after 3M's bankruptcy tactic flops--so where do things go from here?

PENSACOLA, FL, UNITED STATES, June 26, 2023 /EINPresswire.com/ -- [Levin Papanonio Rafferty](#) (LPR) law firm announced that the stay has been lifted on litigation against 3M for its faulty Combat Arms Earplugs v2 (CAEv2). Legal actions can now proceed after U.S. Bankruptcy Judge Jeffrey J. Graham nipped 3M subsidiary Aearo Technologies' attempt to resolve all the faulty CAEv2 claims through a bankruptcy court (Case Number: 22-02890-JJG-11).



Once the final stay on litigation of the CAEv2 cases has been lifted, 31 prioritized cases will be remanded out across the U.S.

LPR represents multiple plaintiffs in each wave of remand cases, as well as one of the three plaintiffs in the first U.S. bellwether trial that also ended in a successful verdict in April 2021.

“

Judge Rodgers has worked tirelessly to shepherd what is now the largest MDL in history to a timely resolution. It's now up to the Defendant's and Plaintiffs' counsels to get it done.”

TROY BOUK, Attorney, Levin Papanonio Rafferty

To date, plaintiffs' attorneys have won 10 of the 16 bellwether trials in this multidistrict litigation ([MDL -2885 IN RE: 3M Combat Arms Earplug Products Liability Litigation](#)), amounting to more than \$265 million in damages for the plaintiffs. Considering the number of plaintiffs in the MDL, damages could add up to a substantial amount, conceded LPR Attorney Troy Bouk.

“I think that is not lost on Judge Graham, but it's just too early, if ever, to be discussing bankruptcy,” Bouk said. “As the judge said, 3M's filing was ‘fatally premature.’”

Where do the Military Earplug Cases Go From Here?

Following Judge Graham's decision in the bankruptcy case, the automatic stay terminated, allowing litigation to resume against the Aearo Defendants in the MDL. However, discovery and trial/remands in the MDL remain stayed pending the Eleventh Circuit's ruling on 3M's petition for interlocutory review of the MDL Judge Casey Rodgers' successor liability sanctions order.

Once the final stay on litigation of the CAEv2 cases has been lifted, 31 prioritized cases will be remanded out across the U.S., according to Bouk. LPR has one of these cases. In the interim, Judge Rodgers has indicated she will be promptly ruling on the pending motions to lift the MDL stay in 13 other cases. After the cases are remanded out, it just becomes a matter of getting a trial date, which Bouk said he hopes will happen quickly.

Litigation would continue but with multiple cases simultaneously occurring, rather than one or two.

Bouk said he believes the judge's goal is to keep pressure on both sides. "Judge Rodgers has worked tirelessly to shepherd what is now the largest MDL in history to a timely resolution," Bouk said. "It's now up to the Defendant's and Plaintiffs' counsels to get it done," Bouk said.

More on the 3M's Bankruptcy Claim

Law firms that are representing CAEv2 plaintiffs, including LPR, filed a motion to dismiss defendants' bankruptcy cases, and Judge Graham granted the motion, finding that:

"Aearo has been, and currently is, financially healthy. Its sales have increased over the last five years, notwithstanding the MDL. Aearo has no reported cash flow problems and timely meets its obligations. There is no suggestion that any debt has been accelerated or that its access to financial markets, investment, or lending has been impacted by the Pending Actions. Aearo remains a small, profitable enterprise."

Bouk further elaborated on Judge Graham's decision.

"The court saw through the 3M's sham pleadings and ruled that allowing an otherwise financially healthy debtor with no impending solvency issues to remain in bankruptcy—much less one whose liability for most of its debt is supported by an even more financially healthy Fortune 500 multinational conglomerate, 3M—exceeds the boundaries of the court's limited jurisdiction.

"3M has the ability to settle outside of bankruptcy, and that's the proper course," Bouk added. "It's a win for the Plaintiffs, many of whom served our country and deserve the opportunity to present their case to a jury and not allow 3M to abuse the court system with pleadings like this."

3M is appealing Judge Graham's decision, which Bouk said, "is not surprising."

About the CAEv2 Lawsuits

In 2019, around 700 lawsuits were consolidated into the newly formed MDL before the Honorable M. Casey Rodgers in the U.S. District Court for the Northern District of Florida. As of June 15, 2023, the number of actions pending in MDL -2885 IN RE: 3M Combat Arms Earplug Products Liability Litigation had reached 254,943, according to the [U.S. Judicial Panel on Multidistrict Litigation](#).

Plaintiffs in these lawsuits allege that defendants Aearo and/or 3M manufactured, distributed, and sold the defective CAEv2 military earplugs, which caused users to suffer hearing loss, tinnitus, and other hearing defects.

According to the court's order, this is the largest MDL in history, representing one-third of cases pending in the federal district court. The next largest currently pending MDL is the Johnson & Johnson talcum powder litigation, which has 37,542 actions pending, as of June 15, 2023.

Sara Stephens
Levin Papantonio Rafferty
+ 12817446560

[email us here](#)

Visit us on social media:

[Facebook](#)

[Twitter](#)

[LinkedIn](#)

[Instagram](#)

[YouTube](#)

This press release can be viewed online at: <https://www.einpresswire.com/article/641179327>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2023 Newsmatics Inc. All Right Reserved.