

Joint Federal MDL Docket Sought for 3M Combat Earplugs Lawsuits

WASHINGTON, DC — Counsel representing a military veteran who sued 3M Company for manufacturing and selling allegedly defective earplugs that caused his hearing loss has moved to create a centralized docket for all similar lawsuits filed in federal courts nationwide.

The Jan. 25 motion filed with the Judicial Panel on Multidistrict Litigation requests that the eight cases currently pending in four judicial districts be transferred to the U.S. District Court for the District of Minnesota. If the motion is granted all future federal claims alleging injury caused by the 3M dual-ended Combat Arms earplugs would also be sent to Minnesota, where 3M has its principal place of business.

The movants represent John Ciaccio, who contends that he suffers from hearing loss and tinnitus as a result of his use of Combat Arms earplugs while serving in the military.

Like plaintiffs in the other pending suits, Ciaccio asserts that the earplugs failed to protect soldiers from exposure to damaging noise during training and combat exercises.

According to the plaintiffs, 3M's standard user instructions called for insertion of the device in a manner that would create a "snug fit" preventing harmful exposure.

However, an inherent defect in the product's design prevents the protective fit from occurring.

"When inserted according to Defendant's standard fitting instructions, the edge of the third flange of the non-inserted end of the earplug presses against the wearer's ear canal and folds back to its original shape, thereby loosening the seal in their ear canals and providing inadequate protection," one California plaintiff recently alleged. "Because the earplugs are symmetrical, the standard fitting instructions will result in a loosening of the seal whether either side is inserted into the ear canal."

Ciaccio further alleges in his petition that 3M predecessor Aearo Technologies knew their product was defective and falsified test results in order to qualify for multi-million dollar contracts with the U.S. military.

Originally created by Aearo, the earplugs were issued to soldiers in branches of the military between 2003 and 2015. 3M acquired Aearo in 2008, and continued to sell the earplugs without the military or soldiers having any knowledge of the alleged defect or without adequate warning of the device's potential dangers.

Earlier this year, 3M paid more than \$9 million to resolve government claims that the company knowingly sold the dual-ended Combat Arms earplugs to the U.S. military without disclosing defects that hampered the effectiveness of the hearing protection device.

Cases are currently filed in federal courts in California, Texas, Oklahoma and Minnesota, with potentially thousands more in the works, counsel claims.

The petitioners who have asked the JPML to create a Multidistrict Litigation docket in Minnesota District Court argue that the venue is most appropriate given its proximity to 3M's headquarters and location of relevant documents and witnesses.

The petition was filed by William R. Sieben, Alicia N. Sieben and Matthew J. Barber of Schwebel, Goetz & Sieben in Minneapolis, and Richard M. Paul III, Ashlea Schwarz and Laura C. Fellows of Paul LLP in Kansas City, Mo.

In Re: 3M Combat Arms Earplug Litigation, MDL No. n/a (JPML).

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