

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**IN RE: AQUEOUS FILM-FORMING  
FOAMS PRODUCTS LIABILITY  
LITIGATION**

**MDL No. 2:18-mn-2873-RMG**

**CASE MANAGEMENT  
ORDER NO. 16.D**

### **This Order Relates to All Actions**

## PROTOCOL FOR SUPPLEMENTAL BRIEFING OF DISPOSITIVE MOTIONS ON THE GOVERNMENT CONTRACTOR DEFENSE

This Case Management Order (“CMO”) supplements and amends the procedures by which the parties have briefed dispositive motions relating to prong one of the government contractor defense pursuant to *Boyle v. United Techs. Corp.*, 487 U.S. 500 (1988) and its progeny as set forth in CMO 16C.

1. Defendant 3M may supplement Defendants' previously-filed motion for summary judgment regarding the government contractor defense (Dkt. No. 1965) via supplemental briefing relating to prongs 2 and 3 of *Boyle*; 3M is hereinafter referred to as a "Category 1 Defendant."
2. Defendants Tyco, Chemguard, the "Kidde Defendants," National Foam, and Buckeye may supplement Defendants' previously-filed motion for summary judgment regarding the government contractor defense (Dkt. No. 1965) via supplemental briefing relating to prongs 2 and 3 of *Boyle*; this group of Defendants is hereinafter referred to as "Category 2 Defendants."
3. Any other Defendant who does not fall within either Category 1 or 2 above may be permitted to file supplemental briefing regarding Defendants' previously filed motion for summary judgment regarding the government contractor defense (Dkt. No. 1965) at a later date, if deemed necessary by the Court.

4. Supplemental briefing related to prongs 2 and 3 of *Boyle* permitted to Defendants in Categories 1 and 2 above shall be limited to a maximum of 95 pages in total. Briefing shall be filed on or before May 13, 2022.<sup>1</sup>
5. The Plaintiffs' Executive Committee ("PEC") may file its response on or before June 17, 2022. The PEC's response brief shall be limited to the same number of pages set forth in paragraph 4.<sup>2</sup>
6. The Category 1 and Category 2 Defendants may file a reply brief totaling not more than 30 pages on or before July 1, 2022.

**AND IT IS SO ORDERED.**

April 7, 2022  
Charleston, South Carolina

s/ Richard Mark Gergel  
Hon. Richard M. Gergel  
United States District Judge

---

<sup>1</sup> Defendants shall number all exhibits attached to the supplemental briefing permitted herein consecutively with those exhibits previously filed. *See* (Dkt. No. 1965) (attaching Ex. Nos. 1-138) and (Dkt. No. 2141) (attaching Ex. Nos. 139-142).

<sup>2</sup> Plaintiffs shall number all exhibits attached to their supplemental briefing consecutive with exhibits previously filed as well. *See* (Dkt. No. 2063) (attaching Exs. 1-127).