

**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. 20

This Order Relates to All Actions

General Denial and Preliminary Statement of Affirmative Defenses in Lieu of Answers

1. This Order memorializes the Court’s directive instructing Defendants to set forth their affirmative defenses instead of answering every complaint.¹ To this end, Defendants must file one General Denial and Preliminary Statement of Affirmative Defenses applicable to all actions in lieu of filing traditional Answers.

2. This Order applies to all actions transferred to *In Re: Aqueous Film-Forming Foams Products Liability Litigation* (“MDL 2873”) by the Judicial Panel on Multidistrict Litigation (“JPML”) pursuant to its Order of December 7, 2018; all related actions originally filed in or removed to this Court; and any “tag-along” actions transferred to this Court by the JPML subsequent to the filing of the final Transfer Order by the Clerk of this Court (collectively “Member Actions”).

3. To the extent not already filed prior to the entry of this Order, a Defendant in any Member Action must file on the Master Docket a General Denial and Preliminary Statement of Affirmative Defenses as one document applicable to all Member Actions in which they are named

¹ See CMC Tr. at 28: 17-18 (Jul. 26, 2019) (“I want the defendants to go ahead and list their affirmative defenses.”); CMC Tr. at 6:12-17 (June 21, 2019) (“The most important part of a — of both the complaint and the answer is to put everybody on notice what issues are in contest. And I’m less concerned about pushing a date for the answers as I am about having the defendants in some meaningful way to assert what those major defenses are.”).

as a Defendant.² Filing on the Master Docket will constitute service of the document on all parties. Once filed, a Defendant's General Denial and Preliminary Statement of Affirmative Defenses is applicable as to all Member Actions, including later-filed actions.

4. Any Defendant that has been served in any Member Action prior to September 1, 2021 that has not previously filed a General Denial and Preliminary Statement of Affirmative Defenses on the Master Docket is directed to file same within 21 days of the entry of this Order.

5. Any Defendant served in a Member Action for the first time on or after September 1, 2021 must file its General Denial and Statement of Affirmative Defenses on the Master Docket no more than 60 days from the later of (i) its receipt of service in a Member Action, (ii) transfer to MDL 2873 of an action in which that Defendant was previously served, or (iii) the date of this Order.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

November 23, 2021
Charleston, South Carolina

² CMC Tr. at 49: 12-14 (Jul. 26, 2019) ("I've asked the defendants to list the defenses. They do not need to list that for every Plaintiff.")