

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

|                             |   |                                     |
|-----------------------------|---|-------------------------------------|
| IN RE: AQUEOUS FILM-FORMING | ) |                                     |
| FOAMS PRODUCTS LIABILITY    | ) | MDL No. 2:18-mn-2873-RMG            |
| LITIGATION                  | ) |                                     |
|                             | ) | <b>Case Management Order No. 3D</b> |
|                             | ) |                                     |
|                             | ) |                                     |
|                             | ) |                                     |
|                             | ) | <b>This Order relates to</b>        |
|                             | ) | <b>ALL CASES</b>                    |
|                             | ) |                                     |

**CASE MANAGEMENT ORDER No. 3D**  
**(Leave to Amend Complaints)**

1. This Order amends the deadline by which a motion to add a new party to a case currently in, or pending transfer into, these multidistrict litigation (“MDL”) proceedings shall be made.

2. CMO No. 3B provided that any such motion shall be made by September 4, 2019.

3. The PEC informs the Court that, through investigations and discovery responses from various Defendants, including but not limited to the Defense Fact Sheets and other documents produced by Defendants, the PEC has identified additional entities that may be liable for Plaintiffs' alleged claims, or a portion thereof, in one or more cases.

4. According to the PEC, these additional entities include alleged manufacturers of AFFF, manufacturers of fluorochemicals utilized in AFFF, manufacturers of PFOA and PFOS precursors contained in AFFF, and distributors of AFFF products that placed AFFF products into the stream of commerce.

5. Accordingly, Plaintiffs who wish to amend their Complaint(s) are hereby granted leave to file an Amended Complaint within ninety (90) days from the entry of this Order, for the

purpose of deleting or naming additional Defendant(s), provided that Plaintiffs allege such additional Defendants are identified alleged manufacturers of AFFF, manufacturers of fluorochemicals utilized in AFFF, manufacturers of PFOA and PFOS precursors contained in AFFF, or distributors of AFFF products that placed AFFF products into the stream of commerce.

6. No amendments other than the deletion of one or more named Defendant(s), the addition of one or more Defendant(s), and revisions directly incidental to the deletion and addition of such Defendant(s), are permitted by this Order, and leave to make any other amendments must be sought separately from the Court after complying with the Federal Rules of Civil Procedure and applicable CMOs, including without limitation consultation with the PEC on any such motions in accordance with CMO No. 2A (Dkt. No. 130).

7. Entry of this Order is without prejudice to the rights and defenses of any existing or newly-named Defendants to challenge the claims asserted against them, whether through appropriate motions subject to this Court's prior and further CMOs in this MDL. Entry of this Order likewise does not waive any defenses, including without limitation defenses related to personal or subject matter jurisdiction.

8. The Court is advised that the PEC has shared with Defendants certain information captured in charts concerning entities already named as defendants in the MDL or potentially affiliated with such entities who may, in the PEC's view, be appropriate parties to be added as Defendants to particular actions as would be permitted by this Order. The Defense Leadership has shared this information with the existing defense counsel for review. In an effort to potentially eliminate or narrow disputes on naming any such entities before they are added as defendants in any amended complaints filed under this Order, individual defendants seeking to raise an issue concerning information reflected in the PEC's charts have already been directed by Defense

Leadership and are now directed by the Court to contact the PEC (through its designees), if they have not done so already, no later than 7 days from the date of this Order to advise the PEC of those issues, after which the parties are to promptly meet and confer to seek to resolve such disputes. This process shall not itself preclude the naming of any entities who participate in this meet and confer process but will also not waive or preclude any arguments or defenses to be asserted by such entities if named. The goal of this process is to correct potential clerical errors in identification and otherwise eliminate or narrow disputes where possible.

**AND IT IS SO ORDERED.**

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

May 28, 2020  
Charleston, South Carolina