

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

IN RE: 3M COMBAT ARMS
EARPLUG PRODUCTS
LIABILITY LITIGATION

This Document Relates to:

KENNETH BAER

PLAINTIFF(S),

v.

3M COMPANY, 3M
OCCUPATIONAL SAFETY LLC,
AEARO HOLDING LLC, AEARO
INTERMEDIATE LLC, AEARO LLC,
and AEARO TECHNOLOGIES LLC,

DEFENDANTS.

Case No. 3:19-md-2885

Judge M. Casey Rodgers
Magistrate Judge Gary R. Jones

MASTER SHORT FORM
COMPLAINT AND
JURY TRIAL DEMAND

Civil Action No.: _____

MASTER SHORT FORM COMPLAINT AND JURY TRIAL DEMAND

Plaintiff(s) incorporate(s) by reference the Master Long Form Complaint and Jury Trial Demand filed in *In re: 3M Combat Arms Earplug Products Liability Litigation* on September 20, 2019. Pursuant to Pretrial Order No. 17, this Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include:

(a) additional claims and allegations against Defendants, as set forth in Paragraphs 10 and 11 or an additional sheet attached hereto; and/or (b) additional claims and

allegations against other Defendants not listed in the Master Long Form Complaint, as set forth in Paragraphs 12 and 13 or an additional sheet attached hereto.

Plaintiff(s) further allege(s) as follows:

I. DEFENDANTS

1. Plaintiff(s) name(s) the following Defendants in this action:

 x 3M Company

 x 3M Occupational Safety LLC

 x Aearo Holding LLC

 x Aearo Intermediate LLC

 x Aearo LLC

 x Aearo Technologies LLC

II. PLAINTIFF(S)

2. Name of Plaintiff:

Kenneth Baer

3. Name of spouse of Plaintiff (if applicable to loss of consortium claim):

N/A

4. Name and capacity (*i.e.*, executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:

N/A

5. State(s) of residence of Plaintiff(s):

Washington

III. JURISDICTION

6. Basis for jurisdiction (diversity of citizenship or other):

Diversity pursuant to 28 U.S.C. Sect. 1332. Venue pursuant to 28 U.S.C. Sect. 1391.

7. Designated forum (United States District Court and Division) in which venue would be proper absent direct filing:

United States District Court for the Northern District of Florida, Pensacola Division.

IV. USE OF DUAL-ENDED COMBAT ARMS EARPLUG

8. Plaintiff used the Dual-Ended Combat Arms Earplug:

Yes

No

V. INJURIES

9. Plaintiff alleges the following injuries and/or side effects as a result of using the Dual-Ended Combat Arms Earplug:

Hearing loss

Sequelae to hearing loss

Other [specify below]

Tinnitus

VI. CAUSES OF ACTION

10. Plaintiff(s) adopt(s) in this Short Form Complaint the following claims asserted in the Master Long Form Complaint and Jury Trial Demand, and the allegations with regard thereto as set forth in the Master Long Form Complaint and Jury Trial Demand:

- _____ Count I – Design Defect – Negligence
- _____ Count II – Design Defect – Strict Liability
- _____ Count III – Failure to Warn – Negligence
- _____ Count IV – Failure to Warn – Strict Liability
- _____ Count V – Breach of Express Warranty
- _____ Count VI – Breach of Implied Warranty
- _____ Count VII – Negligent Misrepresentation
- _____ Count VIII – Fraudulent Misrepresentation
- _____ Count IX – Fraudulent Concealment
- _____ Count X – Fraud and Deceit
- _____ Count XI – Gross Negligence
- _____ Count XII – Negligence Per Se
- _____ Count XIII – Consumer Fraud and/or Unfair Trade Practices
- _____ Count XIV – Loss of Consortium
- _____ Count XV – Unjust Enrichment
- _____ Count XVI – Punitive Damages

_____ Count XVII – Other [specify below]

N/A

11. If additional claims against the Defendants identified in the Master Long Form Complaint and Jury Trial Demand are alleged in Paragraph 10, the facts supporting these allegations must be pleaded. Plaintiff(s) assert(s) the following factual allegations against the Defendants identified in the Master Long Form Complaint and Jury Trial Demand:

N/A

12. Plaintiff(s) contend(s) that additional parties may be liable or responsible for Plaintiff(s)' damages alleged herein. Such additional parties, who will be hereafter referred to as Defendants, are as follows (must name each Defendant and its citizenship):

N/A

13. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 12:

N/A

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint and Jury Demand and any additional relief to which Plaintiff(s) may be entitled.

Dated: August 7, 2020

s/ Michael W. Gaines

MICHAEL W. GAINES
Florida Bar No. 775614
TN BPR 037126
TIM L. BOWDEN
TN BPR 015379 (pro hac vice)
Law Offices of Tim Bowden
306 Northcreek Blvd., Suite 200
Goodlettsville, TN 37072
(615) 859-1996 tel. | (615) 859-1919 fax
mwgaines01@gmail.com
bowden_law@bellsouth.net