

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

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<b>IN RE: AQUEOUS FILM-FORMING</b>	)	
<b>FOAMS PRODUCTS LIABILITY</b>	)	<b>MDL No. 2:18-mn-2873-RMG</b>
<b>LITIGATION</b>	)	<b>CASE MANAGEMENT ORDER NO. 26.B</b>
	)	
	)	<b>This Order Relates to All Actions</b>
	)	

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**AMENDMENTS TO SECOND BELLWETHER PROGRAM:  
INITIAL PERSONAL INJURY CLAIMS**

This CMO 26B amends the schedule set forth in CMOs 26 and 26A with respect to the selection of the Initial Personal Injury Bellwether Discovery Pool Plaintiffs. Specifically, the following provisions of CMO 26 and 26A are hereby superseded as follows:

**B. Selection of Initial Personal Injury Bellwether Discovery Pool Plaintiffs**

6. By no later than December 11, 2023, the Parties shall jointly submit to the Court a list with each selected or proposed case, including the following information: (1) Plaintiff’s counsel information, (2) list of all defendants in the case (and counsel information), (3) a certification that all parties have waived *Lexecon* rights,<sup>2</sup> (4) a brief summary of the alleged injury(ies) and site(s) from which exposure occurred, (5) ECF references to the proposed Bellwether Plaintiff’s operative Complaint and relevant Defendants’ statements of affirmative defenses, and (6) if a plaintiff is not agreed, a brief explanation for why the proponent contends that plaintiff is representative and why the opponent contends that plaintiff is not representative. The Court shall select the 28 Initial

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<sup>2</sup> For the avoidance of doubt, if a party waives *Lexecon* as to a specific case in the Initial Personal Injury Discovery Bellwether Pool, such waiver will not apply to any other case in the MDL.

Personal Injury Bellwether Discovery Pool Plaintiffs from this submission, and these Plaintiffs shall be subject to the provisions of Paragraphs B.4–5 above.

**C. Further Proceedings With Regard to Personal Injury Cases**

1. The Parties shall meet and confer regarding Tier 1 Discovery and will submit either an agreed Tier 1 Discovery CMO or a proposed Tier 1 Discovery CMO with identified disputes to the Court on or before December 11, 2023.

**IT IS SO ORDERED.**

Dated: December 4, 2023  
Charleston, South Carolina

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