UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOHN WINGO, Plaintiff, v. 3M COMPANY, Defendant.	Case No. 22-cv-00993-WMW-JFD **SECOND AMENDED PRETRIAL SCHEDULING ORDER**

ORDER

Based upon the Joint Stipulation to Amend the Scheduling Order filed on June 28, 2023 (Dkt. No. 39), and on all the files and proceedings herein,

IT IS HEREBY ORDERED that the deadlines be amended as follows:

FACT DISCOVERY: DEADLINES AND LIMITATIONS

1. All pre-discovery disclosures required by Rule 26(a)(1) shall be completed on or before **August 8, 2022**. If the parties plan to disclose the documents by a description by category and location of documents, they will exchange copies of the initial disclosure documents on or before **August 8, 2022**.

2. Fact discovery shall be commenced in time to be completed on or before **June 30, 2023**.

   The following limits on fact discovery techniques apply **as an aggregate** to this case and the following cases: *Holler v. 3M Co.*, No. 22-998 (WMW/JFD); *Rieger v. 3M Co.*, No. 22-994 (WMW/JFD); *Kargbo v. 3M Co.*, No. 22-cv-996 (WMW/JFD); *Vaughn Wingo v. 3M Co.*, No. 22-cv-1890 (WMW-JFD); *Nevely Randle v. 3M Co.*, No. 22-cv-1904 (WMW/JFD) (hereinafter "Related Cases"). Pursuant to Paragraph 3 of the Protective Order entered in this case (Dkt. No. 31) discovery taken in one case may be used in all six cases.

3. No more than a total of **45 interrogatories**, counted in accordance with Rule 33(a), shall be served by each side. No more than **60 document requests** shall be served by each side. No more than **60 substantive requests for admissions** shall be served by each side; the number of requests for admissions seeking only the authentication of documents is **unlimited**.

4. No more than **20** fact depositions shall be taken. This total does not include expert depositions but does include organizational-designee depositions taken pursuant to Fed. R. Civ. P. 30(b)(6). An organizational-designee deposition shall count as 1 deposition, irrespective of the number of witnesses designated.

5. No more than **2** Rule 35 medical examinations shall be taken, on or before **June 1, 2023**.

6. Discovery of Electronically Stored Information.

   The parties have discussed issues about preservation and disclosure or discovery of electronically stored information as required by Fed. R. Civ. P. 26(f), including the form or forms in which it should be produced. The parties will inform the Court of any issues that arise related to electronic discovery.

   The parties will further meet and confer by **September 1, 2022**, to discuss their plan or formal protocol for electronic discovery. They agree to present any disputes regarding an electronic discovery plan and protocol to the Court by **October 1, 2022**.

EXPERT DISCOVERY: DEADLINES AND LIMITATIONS

1. Each side may call up to **6** expert witnesses. Disclosure of the identity of expert witnesses under Rule 26(a)(2)(A) and the full disclosures required by Rule 26(a)(2)(B), accompanied by the written report prepared and signed by the expert witness, shall be made as follows:

   a. Initial experts.

      i. The identity of any expert who may testify at trial regarding issues on which the party has the burden of persuasion must be disclosed on or before **April 3, 2023**.

      ii. The initial expert written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **May 1, 2023**.

b. Rebuttal experts.

i. The identity of any experts who may testify in rebuttal to any initial expert must be disclosed on or before **May 15, 2023**.

ii. Any rebuttal expert's written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before **May 3, 2023**.

2. Each side may take one deposition per expert. **The Parties will meet and confer within 30 days of the Court's Order on Defendant's Dispositive Motion** to propose the deadline for expert discovery, including depositions.

DEADLINES FOR FILING MOTIONS

1. All motions which seek to amend the pleadings or to add parties must be filed and served on or before **September 1, 2022**.

2. Non-dispositive motions and supporting documents which relate to fact discovery or related matters shall be filed and served on or before **July 28, 2023**.

3. **The Parties will meet and confer within 30 days of the Court's Order on Defendant's Dispositive Motion** to propose the deadline for Non-dispositive motions and supporting documents which relate to expert discovery.

NON-DISPOSITIVE MOTIONS: GUIDELINES

When possible, the parties should bring discovery disputes to the Court using the Court's process for informal dispute resolution (IDR). One or both parties can contact the Court via phone or email to set a prompt (usually within 2-3 business days) telephone conference to discuss the issues. Two days before the hearing, the parties shall email (not file) the Court either a joint letter setting forth their respective positions or separate letters. If the parties submit separate letters, they must serve a copy on the opposing side unless they have received prior permission from the Court to submit the letters ex parte. Letters should be concise and focus on narrowing the issue in dispute as much as possible. Both

sides must agree to use the informal process to resolve discovery disputes. If either side objects to using this process, a formal motion must be filed.

If formal non-dispositive motions are filed, they must comply with the Electronic Case Filing Procedures for the District of Minnesota, with Local Rules 7.1 and 37.1, and be in the form prescribed by Local Rule 37.2. **Judge Docherty prefers not to receive courtesy copies, unless the motions contain or refer to documents that are not filed on ECF, in which case those documents should be emailed to Docherty_chambers@mnd.uscourts.gov.** All non-dispositive motions shall be scheduled for hearing by calling the Judicial Assistant to Magistrate Judge Docherty, at 651-848-1180, prior to filing, except when all parties are in agreement that no hearing is required. Such an agreement shall be expressly set forth in the notice of motion. Counsel are advised not to notice additional motions for hearing on an already existing hearing date without first contacting the Court for permission to do so.

A "meet and confer" requirement applies to IDR and formal motion practice. Parties must attempt to confer through personal contact (during the COVID pandemic, "personal contact" means by telephone), rather than solely through written correspondence or email. Whether parties raise non-dispositive disputes informally or through traditional motions, the parties must engage in a focused meet and confer process in a sincere effort to resolve or narrow the disagreement.

DISPOSITIVE MOTIONS: GUIDELINES AND DEADLINES

Counsel for the moving party shall contact the Courtroom Deputy for District Judge Wilhelmina Wright, at (651)-848-1640, **no later than June 30, 2023** to **schedule** a hearing

for a dispositive motion, if any. Counsel are reminded that at least two (2) to three (3) months advance notice is necessary to place a dispositive motion on the calendar. All dispositive motions and supporting papers (motion, notice of motion, memorandum of law, affidavits and exhibits and proposed order) shall be filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and in compliance with Local Rule 7.1; **however**, unless otherwise directed by the Court, the moving party's motion papers shall not be filed until forty-two (42) days prior to the scheduled hearing date and any reply memorandum shall be filed at least fourteen (14) days prior to the scheduled hearing date.

Parties are expected to be familiar with and adhere to the Federal Rules, the Local Rules, and any supplementation of those rules outlined in Judge Wright's Practice Pointers and Preferences, available on the District of Minnesota website.

Notwithstanding the foregoing, no party shall bring a dispositive motion pursuant to Fed. R. Civ. P. 56 while formal discovery is ongoing without first obtaining permission from the undersigned magistrate judge. Permission shall be sought by electronically filing via CM/ECF a letter of no more than three (3) pages briefly setting forth the basis for the motion, whether discovery relating to the issue or issues to be addressed by the motion is complete, and why judicial efficiency would be served by allowing the motion to proceed at this time. The other party or parties may file brief letters in support of or in response to the request. Denial of a request for permission to file an interim dispositive motion shall not be taken as an indication of the Court's view about the merits of the proposed motion.

Defendant has scheduled a dispositive motion hearing for **November 15, 2023**, and the partis have agreed upon the following briefing schedule for the Related Cases:

Deadline	Deadline for First Three Dispositive Motions and Supporting Documents	Deadline for Second Three Dispositive Motions and Supporting Documents
Defendant's Moving Brief	**September 6, 2023**	**September 27, 2023**
Plaintiff's Responsive Brief	**September 27, 2023**	**October 18, 2023**
Defendant's Reply Brief	**October 11, 2023**	**November 1, 2023**

TRIAL

This case shall be ready for a **jury** trial on **June 24, 2024**. The anticipated length of trial is 7 days.

Dated: July 5, 2023

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge