UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR WARMING DEVICES PRODUCTS LIABILITY LITIGATION

MDL No. 15-2666 (JNE/DTS)

This Document Relates to All Actions:

PLAINTIFFS MOTION TO STRIKE UNAUTHORIZED LETTER TO THE COURT

PLEASE TAKE NOTICE that Plaintiffs by and through undersigned counsel respectfully moves the Court to strike Defendants' letter to Magistrate Judge Schultz [ECF No. 2759], filed by Defendants on April 22, 2025, from the docket. The letter and accompanying portions of transcript from the *Boncher v. 3M Co. Inc.* trial should be stricken for the following reasons:

1. Violation of Local Rule 7.1: The letter constitutes an unsolicited memorandum to the Court, in violation of D. Minn. LR 7.1(i), which prohibits submission of additional written material without the Court's prior approval. Plaintiffs' Motion to Conduct *De Bene Esse* Depositions has been fully briefed and argued to the Court.
2. Contravention of Court Order: The Court previously issued an order explicitly directing the parties no letters to the Court are permitted absent prior permission from Chambers. [ECF No. 1774].

It should go without saying, but rules matter. Court orders matter. These rules and orders go to the heart of a functioning civil society. When lawyers and parties are emboldened to ignore rules and orders, that undermines the foundation of the rule of law. It is impossible to

avoid headlines reporting consequences that flow from parties and lawyers refusing to follow court orders. And there is no dispute counsel for Defendants is aware of both the Local Rules and this Court's prior Order regarding letters. See Ex. 1 to Dec. of Genevieve M. Zimmerman (April 23, 2025 email chain). And similarly, there is no dispute counsel for Defendants have repeatedly ignored both the Local Rule and this Court's Order regarding letters, apparently concluding the plain language of both do not apply to Defendants.[i] *Id.*

Lawyers should follow the rules. Courts should enforce them. Defendants never sought or obtained permission from Chambers prior to filing the letter in question. Accordingly, undersigned counsel respectfully requests the letter be stricken from the record, a request for sanctions in the form of an award of attorney's fees for responding to this unauthorized letter, and an order noting the letter was unauthorized and this ongoing refusal to comply with valid court order will not be tolerated.

Dated: April 24, 2025

Respectfully Submitted,

/s/ Genevieve M. Zimmerman

Genevieve Zimmerman (MN# 330292)
MESHBESHER & SPENCE. LTD.
1616 Park Avenue South
Minneapolis, MN 55404
Phone: (612) 339-9121
Fax: (612) 339-9188
Email: gzimmerman@meshbesher.com

Co-Lead Counsel for Plaintiffs

[i] Failure to timely follow Local Rules was sufficient legal basis to deny a motion to amend a complaint to confirm the claims being asserted were pursuant to the Ohio Products Liability Statutes rather than common law. This resulted in judgment as a matter of law being entered in Defendants favor. (Axline, Case No. 17-cv-00511, Doc. 42)