

**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

**AGENDA AND JOINT STATUS
UPDATE FOR MARCH 19, 2026
STATUS CONFERENCE**

The parties respectfully submit the following Agenda and Joint Status Update for their status conference with Magistrate Judge Schultz on March 19, 2026.

AGENDA

1. Plaintiff Fact Sheets

Fifth order to show cause (Dkt. No. 3348)

Proposed sixth order to show cause

2. Status Update

Number of Cases in the MDL / Trial Candidate Cases

State Court Cases

Canadian Action

Non-Case-Specific Discovery

Other Pending Motions/Orders/R&Rs

Appeals

STATUS UPDATE

1. Number of Cases in the MDL / Trial Candidate Cases

On March 16, 2026, there were 8,518 cases pending in this MDL.

In late 2023, the parties selected 34 trial candidate cases pursuant to a protocol negotiated under the supervision of the former special settlement master, Hon. James M. Rosenbaum (Ret.). Eight of these “Wave 2” cases remain pending as of January 8, 2025:

Plaintiff	Court	Trial	Notes
<i>Boncher</i>	E.D. Pa.	Mistrial on 5/2 following three days of deliberation	Parties proposed retrial on 11/6/26; court has not yet approved. 3M filed its Brief in Support of Rule 50 Motion for Judgment as a Matter of Law; Plaintiff’s response due 3/18.
<i>Billitteri</i>	D. Nev.	Not set	MSJ and FRE 702 motions to be heard 3/19.
<i>Cage</i>	S.D. Ohio	Not set	In discovery.
<i>Clark (fka Butler)</i>	S.D. Ohio	Not set	MSJ and FRE 702 motions under advisement.
<i>Ciolino-Terzoli</i>	D. Nev.	Not set	MSJ and FRE 702 motions filed. FRE 702 motions to be heard 3/19.
<i>Goffinet</i>	S.D. Ohio	Not set	On 2/17, 3M’s FRE 702 motions were denied and its summary judgment motion granted in part and denied in part. Case referred to mediation.
<i>Moore</i>	D. Minn.	Not set	Removed from calendar based on product ID issue. The parties request that the case be put in Group 5.
<i>Sooter</i>	N.D. Ill.	Not set	Notice of settlement filed 11/18/25.

On December 22, 2025, the Hon. William F. Jung of the Middle District of Florida dismissed *Robinson*, Case No. 8:24-00828-WFJ-AAS, without prejudice for failure to comply with MDL Pretrial Order No. 23. On March 3, 2026, 3M filed a motion to dismiss the appeal for lack of standing. Plaintiff's counsel responded on March 13. Plaintiff's opening brief is due Mar. 25.

The Court's Feb. 7, 2025 order led to the selection of 150 additional trial candidate cases, as well as a process for replacement of cases dismissed from that group. (Dkt. No. 2549.) On June 27, the Court issued an order dividing the cases into three groups. (Dkt. No. 2866.) On Sept. 16, the Court issued an order replacing dismissed cases with 28 new cases and creating a fourth group. (Dkt. No. 3048.) On Nov. 21, the Court issued an order replacing dismissed cases with 22 new cases and creating a fifth group. (Dkt. No. 3224.)

Judge Schultz has issued scheduling orders for all five groups. At the request of one or both parties, several cases have been moved to later workup groups – most recently, the Court ordered 10 Group 3 cases moved to either Group 4 or Group 5. *E.g.*, *Rojas*, 16-cv-2108 (Dkt. No. 18). With the Court's permission, 3M filed early summary judgment motions on Mar. 17 in Group 1 cases *Craft*, 24-cv-0517 (Dkt. No. 22), and *Walker*, 24-cv-0787 (Dkt. No. 22), and Group 2 case *Krapfl*, 242-cv-0293 (Dkt. No. 27).

2. State Court Cases

There are nine pending state court cases:

Plaintiff	Court	Trial Date	Notes
<i>Kelso</i>	Harris County, TX	2/23/26	Trial underway and expected to conclude the week of 3/23.
<i>Moore</i>	Philadelphia Common Pleas, PA	11/2/26	Hospital also named as a defendant. In discovery. In response to 3M and the hospital's third motion for extension, the court moved the trial-ready date to 11/2.
<i>Sparrow</i>	Bernalillo County, NM	1/19/27	Motion to dismiss without prejudice filed by plaintiffs' counsel on 3/3 following plaintiff's death.
<i>Friedrich</i>	Ramsey County, MN	Trial ready 7/19/27	Putative class action alleging consumer protection claims.
<i>Capoferri, et al.</i>	Ramsey County, MN	3/1/27	10 plaintiffs asserting personal injury and consumer protection claims.
<i>Bergstraser</i>	Ramsey County, MN	Not set	Filed 1/23/26. Plaintiff's MDL claim was dismissed for lack of diversity jurisdiction.
<i>Barry</i>	Lewis and Clark County, MT	Not set	Hospital named as co-defendant was dismissed on summary judgment. Final pretrial conference to be reset.
<i>George</i>	Lewis and Clark County, MT	Not set	Hospital has been dismissed by stipulation. Final pretrial conference 5/14/26.

<i>Sedberry</i>	Bernalillo County, NM	Not set	Hospital also named as a defendant. In discovery.
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3. Canadian Action

On June 22, 2016, Defendants were served with a Canadian putative class action, *Driessen v. 3M Canada Co., 3M Co. & Arizant Healthcare Inc.*, filed in Ontario Superior Court of Justice, File No. 16-69039. Plaintiff Driessen seeks to represent a putative class of “[a]ll persons residing in Canada who had the 3M Bair Hugger Forced-Air Warming Device used on them during surgery.” There has been no recent case activity.

4. Non-Case-Specific Fact and Expert Discovery

On December 19, 2025, the Court heard the parties’ positions on custodians and search terms. The Court gave directions to the parties on the record. Per the Court’s direction, the parties submitted letter briefs on custodians on March 10.

The Court took under advisement the issue of production of various insurance policies held by Defendants as it relates to this litigation. The Court ordered disclosure of insurance coverage applicable to Groups 3-5 in the scheduling orders for those cases.

5. Other Pending Motions/Orders/R&Rs.

Defendants filed their Omnibus Motion for Summary Judgment or, in the Alternative, for a Special Case Management Order on Aug. 8. (Dkt. No. 2945.) The motion is under advisement.

There are two pending, fully briefed motions concerning deceased plaintiffs: 3M’s 16th motion and 17th motion to dismiss pursuant to Pretrial Order No. 23. (Dkt. Nos. 3123 and 3248.)

Defendants filed motions for judgment on the pleadings based on the statute of limitations for certain plaintiffs alleging injuries in these states:

Master Docket	Individual Cases/Plaintiffs' Counsel	State	Status
2985	<i>Culpepper</i> , 17-2893 (Farris Riley & Pitt); <i>Miles</i> , 17-3223 (Brown & Crouppen)	Alabama	Plaintiffs sought leave to amend. Motions fully briefed.
2997	<i>Menefee</i> , 18-1078 (Randall J. Trost, P.C.); <i>Cox</i> , 17-1425 (Brown & Crouppen); <i>Wongus</i> , 17-3643 (Pendley, Baudin & Coffin)	Virginia	Plaintiffs sought leave to amend. Motions fully briefed.
3066	<i>Hugo</i> , 17-2172 (Pendley, Baudin & Coffin)	Idaho	Plaintiffs sought leave to amend. Motions fully briefed.
3086	<i>Zann</i> , 18-1494 (Brown & Crouppen); <i>McIlrath</i> , 18-2182 (Brown & Crouppen); <i>Hurkmans</i> , 17-4099 (Pendley, Baudin & Coffin)	Michigan	Plaintiffs sought leave to amend. Motions fully briefed.
3102	<i>Cook</i> , 17-1115 (Pendley, Baudin & Coffin/Olinde Firm); <i>Zirretta</i> , 25-1681 (Walston Legal); <i>Ramirez</i> , 17-4976 (Davis & Crump); <i>Patton</i> , 25-1520 (Walston Legal)	Texas	Plaintiffs sought leave to amend. Motions fully briefed. The Court heard argument on Dec. 2.
3163	<i>Cromartie</i> , 18-3297 (Davis & Crump); <i>Morrison</i> , 18-2186 (Brown & Crouppen); <i>Ashurst</i> , 25-1184 (McDonald Worley)	North Carolina	Cromartie and Morrison filed motions to amend. Fully briefed. Ashurst filed amended complaint; 3M filed motion to strike. Fully briefed.
3169	<i>Hall</i> , 16-2386 (Miller Firm); <i>New</i> , 19-0050 (Nachawati Law); <i>Fleet</i> , 23-0477 (Langdon & Emison)	Tennessee	Hall sought leave to amend. Fully briefed.

3179	<i>Minor</i> , 17-2033 (Brown & Crouppen); <i>Paine</i> , 18-0069 (Fitzgerald Law); <i>Taplin</i> , 17-2848; <i>Arnold</i> , 24-2280 (Langdon & Emison)	Oklahoma	Minor, Paine, and Taplin sought leave to amend. Fully briefed.
3186	<i>Carosone</i> , 17-2921 (Brown & Crouppen); <i>Panipinto</i> , 23-2415 (Langdon & Emison); <i>Passante</i> , 23-2432 (Meshbesher)	New York	Carosone sought leave to amend. Motions fully briefed.
3262	<i>Best</i> , 25-1919 (Walston); <i>Brady</i> , 25-1808 (Walston)	Mississippi	Plaintiffs sought leave to amend. Motions fully briefed.
3268	<i>Lorenzen</i> , 25-1933 (Walston); <i>McCracken</i> , 25-1805 (Walston); <i>Dahl</i> , 25-1902 (Walston)	South Dakota	Plaintiffs sought leave to amend. Motions fully briefed.
3274	<i>French</i> , 18-1218 (Brown & Crouppen); <i>Bures</i> , 25-1864 (Walston); <i>Stahlnecker</i> , 25-1869 (Walston)	Nebraska	Bures did not respond to the motion. French and Stahlnecker sought leave to amend. Motions fully briefed.
3280	<i>Arjona</i> , 25-1497 (Walston); <i>Harris</i> , 17-2634 (Brown & Crouppen); <i>Wood</i> , 17-4690 (Davis & Crump)	Kansas	Plaintiffs sought leave to amend. Motions fully briefed.

On Nov. 7, the Court issued orders in *King*, 19-cv-904 (Dkt. No. 12), and *Blake*, 24-cv-1237 (Dkt. No. 14), requiring plaintiffs' counsel in those cases to show cause by Dec. 1 as to their compliance with Rule 11(b)(1)-(3). Plaintiffs' responses were filed on Dec. 1. On Dec. 8, the Court issued a text order authorizing Defendants to respond in *King*. Defendants filed their response on Dec. 23. (Dkt. No. 16.)

On Jan. 16, Judge Schultz issued R&Rs recommending dismissal for failure to prosecute in two Group 3 trial candidate cases: *Salazar*, 17-cv-4005 (Dkt. No. 24); and *Wood*, 16-cv-0828 (Dkt. No. 21). On Feb. 9, Judge Schultz issued an R&R recommending

dismissal for failure to prosecute in *Gorham*, 16-cv-3802 (Dkt. No. 31), another Group 3 trial candidate case. The Court adopted the R&R in *Gorham* on Mar. 5.

On Jan. 23, Judge Schultz issued R&Rs recommending dismissal for failure to prosecute in four *pro se* cases. *E.g.*, *Estate of Andras*, 16-cv-0545. (Dkt. No. 21.) On Feb. 26, the Court issued an order requiring seven plaintiffs whose counsel withdrew to file a notice of appearance for substitute counsel or a letter stating that the plaintiff intends to proceed *pro se*. *Pack*, 16-cv-0547 (Dkt. No. 20); *Ailes*, 16-cv-3420 (Dkt. No. 17); *Zimmerman*, 16-cv-04434 (Dkt. No. 17); *D'Agostino*, 17-cv-1424 (Dkt. No. 14); *Tillman*, 17-cv-2728 (Dkt. No. 14); *Chambers*, 17-cv-2923 (Dkt. No. 14); *Harris*, 17-cv-4078 (Dkt. No. 15).

Plaintiff Fact Sheets

Following the Court's Aug. 20 Order on 3M's First Motion to Enforce the PFS "Reset" Order, 3M submitted letters requesting dismissal of nine cases. (Dkt. Nos. 3115, 3130.) McDonald Worley filed a response. (Dkt. No. 3126.) That dispute remains pending.

3M filed its Second Motion to Enforce the PFS "Reset" Order on Sept. 18. (Dkt. No. 3054.) Argument was heard Oct. 2. On Oct. 21, following a meet-and-confer with plaintiffs' counsel, 3M submitted order captions with three lists: (i) cases where amended PFSs were not served by Aug. 26; (ii) cases where an amended PFS was served after Aug. 26 and before the Oct. 2 status conference; and (iii) cases where no verification was provided with the amended PFS or 3M contends that the verification was improper. (*See* 3M letter, Dkt. No. 3134; McDonald Worley response, Dkt. No. 3135.) On Dec. 8, the Court issued an order to address the backlog of PFS deficiencies. (Dkt. No. 3247.) 3M

submitted proposed revisions to that order on January 8. Pursuant to the Dec. 8 order, 3M submitted a set of PFSs for review by the Court on Jan. 30. The Court issued an order on Mar. 2 requiring plaintiffs in 46 cases to serve an amended, verified PFS correcting deficiencies identified in the Court's order. (Dkt. No. 3350.)

On Jan. 22, Judge Schultz issued an R&R on the third PFS Order to Show Cause. (Dkt. No. 3322.) The Court adopted that R&R on Mar. 5. (Dkt. No. 3353.) On Feb. 25, Judge Schultz issued an R&R on the fourth PFS Order to Show Cause. (Dkt. No. 3347.) No objections have been filed. Also on Feb. 25, the Court issued a fifth PFS Order to Show Cause, setting a deadline of March 19 for compliance. (Dkt. No. 3348.) Defendants anticipate submitting a proposed R&R on the fifth Order to Show Cause as well as a draft sixth Order to Show Cause following the March status conference.

6. Appeals

Appeals were filed from the Court's orders granting summary judgment in *Pelican*, 25-2937 (8th Cir.), *Jones*, 25-2937 (8th Cir.), and *Skinner*, 25-3059 (8th Cir.). Plaintiffs-Appellants' opening brief in *Pelican* and *Jones* was filed on Dec. 19. Defendants-Appellees filed their response on Mar. 10. Plaintiffs-Appellants' reply is due Mar. 31. Briefing in *Skinner* is stayed pending preparation of a settlement agreement and stipulation to dismiss.

Plaintiffs in *Garcia*, 17-cv-4466, and *Hawthorne*, 17-cv-3803, appealed the Court's dismissal of their cases for noncompliance with Pretrial Order No. 23. Plaintiffs-Appellants' opening brief is due Apr. 6.

On Jan. 22, the plaintiff in *Anderson*, 17-cv-0101, a *pro se* trial candidate case, appealed the order dismissing his case to the Eighth Circuit. Mr. Anderson must pay the

appellate filing and docketing fee or move to proceed *in forma pauperis* by Mar. 23 or his appeal may be dismissed for failure to prosecute.

As noted above, an appeal was filed from the Middle District of Florida's order of dismissal in *Robinson*. 3M has moved to dismiss the appeal.

Dated: March 18, 2026

Respectfully submitted,

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