

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

**IN RE: YAMAHA MOTOR CORP. RHINO
ATV PRODUCTS LIABILITY LITIGATION**

**Master File No. 3:09-MD-2016-JBC
MDL No. 2016**

**THIS DOCUMENT RELATES TO ALL
CASES**

**JENNIFER B. COFFMAN,
U.S. DISTRICT JUDGE**

**SECOND ORDER REGARDING PRACTICE AND PROCEDURE
FOR CASES FILED IN OR TRANSFERRED TO MDL 2016**

It is **ORDERED** that the practice and procedure order filed on March 16, 2009 (R.6 in Case No. 09-2016), is superseded by this order.

Actions transferred to this court by the Judicial Panel on Multidistrict Litigation and all related actions originally filed in this court or transferred or removed to this court, as well as any tag-along actions transferred to this court by the Judicial Panel on Multidistrict Litigation, and any related actions subsequently filed in this court or otherwise transferred or removed to this court, shall all be governed by the following practices and procedures:

(1) The actions described above are consolidated for pretrial purposes.

(2) All documents filed in these actions shall bear the identification "MDL Docket No. 2016," and shall indicate to which of these actions it applies. Counsel are urged to use the caption as it appears above. The notation "ALL CASES" shall be used where appropriate; alternatively, if any filing does not relate to all of these actions, the individual docket numbers assigned to those actions by the Clerk of this court shall be listed. An abbreviated caption for each of those actions may be listed opposite its cause number. Cause numbers assigned by transferor courts

shall not be used in filings with this court.

(3) Any paper which is to be filed in any of these actions shall be filed with the Clerk of this court and not with the transferor district court.

(4) Counsel who appeared in the transferor district court prior to the transfer need not enter a separate appearance before this court. Non-resident attorneys in any of these actions shall not be required to apply for permission to appear or obtain local counsel in this district and the requirements of Joint Local Rules 83.1 and 83.2 of the Eastern and Western District of Kentucky are waived as to any attorney appearing in these actions who is duly admitted to practice before any United States District Court.

(5) These cases are subject to Electronic Case Filing ("ECF"), pursuant to Joint General Order 05-03, which requires that all documents in such a case be filed electronically. All attorneys of record shall register to become an ECF User. Forms and instructions can be found on the Court's website at <https://kywd.uscourts.gov/CMECFWelcome.php>.¹ All attorneys must be registered with this Court's CM/ECF system no later than **30 days from the entry of this order**, absent application to the Court for relief from this requirement, and all filings must be made electronically pursuant to the Court's CM/ECF system. The login and password issued by the Western District of Kentucky upon such registration will be used only for the purpose of filing documents in the Yamaha Motor Corp. Rhino ATV Products Liability Litigation and related cases. Said login and password are not to be used to file documents in any other case in the Western District of Kentucky unless the attorney is admitted or becomes admitted to practice in this District pursuant to LR 83.1.

(6) The Panel Attorney Service List will be continually revised and can be accessed via a link to the Multidistrict Litigation website which is posted on the court's webpage. A distribution list should not be included on documents filed in this court; rather, a certificate of service indicating that service has been completed as agreed by the parties in Case Management Order #3 is sufficient. Any attorney who wishes to have his/her name added or deleted from the Panel Attorney Service List may do so upon request of the Clerk of this court with notice to all other persons on the service list, provided, however, that at least one counsel for each

¹ Filers with questions regarding procedures for electronic filing in the Western District of Kentucky are directed to call the ECF Help Desk Monday through Friday, 8:00 a.m to 6:00 p.m. ET at 1-866-822-8305.

party separately represented must remain on the list.² That list will be updated as counsel enter appearances and/or as tag-along cases are transferred to this court.

(7) Where counsel for more than one party plan to file substantially identical papers, they shall join in the submission of such papers and shall file only one paper on behalf of the parties so joined.

(8) The court will be guided in its management of this litigation by the *Manual for Complex Litigation, Fourth* which has been approved by the Judicial Conference of the United States. Counsel are directed to familiarize themselves with that reference. The court wishes to express clearly its expectations that professionalism, courtesy, and civility will endure throughout these proceedings. The *Manual for Complex Litigation, Fourth* at section 10.21 captures the spirit in these terms:

The added demands and burdens of complex litigation place a premium on attorney professionalism, and the judge should encourage counsel to act responsibly. The certification requirements of the Federal Rules of Civil Procedure 11 and 26(g) reflect some of the attorneys' obligations as officers of the court.

Because of the high level of competence and experience that the attorneys ordinarily bring to this type of litigation, the court is confident that this objective will be achieved without judicial intervention.

(9) Where there is a pending motion that was fully briefed prior to transfer into this multi-district litigation proceeding, parties shall advise this court within fifteen days of the date their case is opened on CM/ECF in the Western District of Kentucky if supplemental briefing is required. If nothing is filed within fifteen days, the court will proceed to rule on these fully briefed motions.

(10) Where there is a pending motion that was not fully briefed prior to transfer into this multi-district litigation proceeding, the last pleading responsive to that motion will be deemed filed on the date the case is opened on CM/ECF in the Western District of Kentucky. Any additional responsive pleadings shall be filed according to the Joint Local Rules of the Eastern and Western Districts of Kentucky, and all time periods will run from the date of the case opening. If no responsive pleading is filed within the time allowed, the court will proceed to rule on the motion.

²This requirement does not in any way amend the duties and requirements of counsel under Local Rule 83.6 with regard to the withdrawal of counsel.

(11) Any other matter that counsel believes requires the immediate attention of the court shall be brought to the court's attention within fifteen days of the date the case is opened on CM/ECF in the Western District of Kentucky.

IT IS SO ORDERED.

Signed on October 9, 2009

Signed on October 9, 2009



Jennifer B. Coffman

JENNIFER B. COFFMAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY