

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION  
-Electronically Filed-

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U.S. DISTRICT COURT  
WESTERN DISTRICT OF KY  
APR 26 PM 6:11

<p><b>IN RE: YAMAHA MOTOR CORP. RHINO ATV PRODUCTS LIABILITY LITIGATION</b></p> <hr/> <p><b>THIS DOCUMENT RELATES TO: ALL CASES</b></p>	<p>Master File No. 3:09-MD-2016-JBC MDL No. 2016</p> <p><b>JENNIFER B. COFFMAN, U.S. DISTRICT JUDGE</b></p>
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**CASE MANAGEMENT ORDER NO. 10**

In order to set and clarify case deadlines for all Case Groups in this MDL, the Court enters this Case Management Order No. 10. This CMO No. 10 supercedes CMO No. 9 in its entirety. The provisions of all other Case Management Orders remain in effect, except to the extent revised by deadlines set forth in this Order. Nothing in this Order shall preclude a party from seeking remand to a transferor court upon the completion of necessary discovery, or the transfer of cases from one Case Group to another Case Group as appropriate.

**I. Expert Discovery and Motions in Group 1 Cases, Other Than Deferred Expert Categories**

This provision supersedes the deadlines set forth in paragraph A of CMO No. 4. Pursuant to CMO No. 1 Section IV(B), for categories of experts other than the Deferred Expert Categories, the expert discovery and motions deadlines for Case Group 1 cases shall be as follows:

1. Deadline to depose plaintiffs' experts – June 30, 2010
2. Defendants' expert disclosures/reports due – July 21, 2010
3. Deadline to depose defendants' experts – October 6, 2010
4. Plaintiffs' rebuttal reports due – October 20, 2010
5. Deadline to depose plaintiffs' rebuttal experts – December 8, 2010
6. Deadline to file *Daubert* and dispositive motions – December 22, 2010

7. Deadline to file responses to *Daubert* and dispositive motions – January 21, 2011
8. Deadline to file replies regarding *Daubert* and dispositive motions – February 4, 2011

**II. Discovery and Motions Deadlines for Group 1 Cases, Deferred Expert Categories**

This provision supersedes the deadlines set forth in paragraph C of CMO No. 4. Pursuant to CMO No. 1 Section IV(B), for any deferred expert discovery in Case Group 1 cases that have not been resolved or dismissed, including experts in the Deferred Expert Categories, the expert discovery and motions deadlines shall be as follows:

1. Plaintiffs' expert disclosures/reports due – October 20, 2010
2. Deadline to depose plaintiffs' experts – December 8, 2010
3. Defendants' expert disclosures/reports due – January 5, 2011
4. Deadline to depose defendants' experts – February 23, 2011
5. Plaintiffs' rebuttal reports due – March 16, 2011
6. Deadline to depose plaintiffs' rebuttal experts – April 27, 2011
7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – May 18, 2011
8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – June 17, 2011
9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – July 1, 2011

**III. Deadlines for Cases in Case Group 2**

The deadlines set forth below shall apply to cases in Case Group 2.

**Expert Discovery and Motions Deadlines for Group 2 Cases, Other Than Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports for both non-case specific and case-specific experts due – June 18, 2010
2. Deadline to depose plaintiffs' experts – September 17, 2010
3. Defendants' expert disclosures/reports due – October 8, 2010
4. Deadline to depose defendants' experts – January 7, 2011
5. Plaintiffs' rebuttal reports due – January 21, 2011
6. Deadline to depose plaintiffs' rebuttal experts – March 11, 2011
7. Deadline to file *Daubert* and dispositive motions – March 25, 2011
8. Deadline to file responses to *Daubert* and dispositive motions – April 25, 2011
9. Deadline to file replies to *Daubert* and dispositive motions – May 9, 2011

**Expert Discovery and Motions Deadlines for Group 2 Cases, Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports due – January 21, 2011
2. Deadline to depose plaintiffs' experts – March 11, 2011
3. Defendants' expert disclosures/reports due – April 8, 2011
4. Deadline to depose defendants' experts – May 27, 2011
5. Plaintiffs' rebuttal reports due – June 17, 2011
6. Deadline to depose plaintiffs' rebuttal experts – July 29, 2011
7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – August 19, 2011
8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – September 19, 2011
9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – October 3, 2011

**IV. Deadlines for Cases in Case Group 3**

The deadlines set forth below shall apply to cases in Case Group 3.

**Close of Fact Discovery for Group 3 Cases**

Close of fact discovery – August 20, 2010

**Expert Discovery and Motions Deadlines for Group 3 Cases, Other Than Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports for both non-case specific and case-specific experts due – September 17, 2010
2. Deadline to depose plaintiffs' experts – December 17, 2010
3. Defendants' expert disclosures/reports due – January 7, 2011
4. Deadline to depose defendants' experts – April 8, 2011
5. Plaintiffs' rebuttal reports due – April 22, 2011
6. Deadline to depose plaintiffs' rebuttal experts – June 10, 2011
7. Deadline to file *Daubert* and dispositive motions – June 24, 2011
8. Deadline to file responses to *Daubert* and dispositive motions – July 25, 2011
9. Deadline to file replies regarding *Daubert* and dispositive motions – August 8, 2011

**Expert Discovery and Motions Deadlines for Group 3 Cases, Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports due – April 22, 2011
2. Deadline to depose plaintiffs' experts – June 10, 2011
3. Defendants' expert disclosures/reports due – July 8, 2011
4. Deadline to depose defendants' experts – August 26, 2011
5. Plaintiffs' rebuttal reports due – September 16, 2011
6. Deadline to depose plaintiffs' rebuttal experts – October 28, 2011

7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – November 18, 2011
8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – December 19, 2011
9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – January 9, 2012

**V. Deadlines for Cases in Case Group 4**

The deadlines set forth below shall apply to cases in Case Group 4.

**Remaining Fact Discovery Deadlines for Group 4 Cases**

1. YMC Fact Sheets due<sup>1</sup> –April 27, 2010
2. Close of Fact Discovery – November 19, 2010

**Expert Discovery and Motions Deadlines for Group 4 Cases, Other Than Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports for both non-case specific and case-specific experts due – December 17, 2010
2. Deadline to depose plaintiffs' experts – March 18, 2011
3. Defendants' expert disclosures/reports due – April 8, 2011
4. Deadline to depose defendants' experts – July 8, 2011
5. Plaintiffs' rebuttal reports due – July 22, 2011
6. Deadline to depose plaintiffs' rebuttal experts – September 9, 2011
7. Deadline to file *Daubert* and dispositive motions – September 23, 2011
8. Deadline to file responses to *Daubert* and dispositive motions – October 24, 2011
9. Deadline to file replies regarding *Daubert* and dispositive motions – November 7, 2011

**Expert Discovery and Motions Deadlines for Group 4 Cases, Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports due – July 22, 2011
2. Deadline to depose plaintiffs' experts – September 9, 2011
3. Defendants' expert disclosures/reports due – October 7, 2011
4. Deadline to depose defendants' experts – November 25, 2011
5. Plaintiffs' rebuttal reports due – December 16, 2011
6. Deadline to depose plaintiffs' rebuttal experts – January 27, 2012
7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – February 17, 2012

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<sup>1</sup> Under CMO No. 3, for Group 4 cases, Plaintiffs' Fact Sheets were due on February 26, 2010; YMMC and YMUS Fact Sheets were due on March 29, 2010; and Dealer Fact Sheets, including any Common Fact Sheets required, were due on March 29, 2010.

8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – March 19, 2012
9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – April 2, 2012

#### **VI. Deadlines for Cases in Group 5**

The deadlines set forth below shall apply to cases in Case Group 5.

##### **Fact Discovery Deadlines for Group 5 Cases**

1. Plaintiffs' Fact Sheets due – May 27, 2010
2. YMMC and YMUS Fact Sheets due – June 28, 2010
3. Dealer Fact Sheets due, including any Common Fact Sheets required – June 28, 2010
4. YMC Fact Sheets due – July 26, 2010
5. Close of Fact Discovery – February 18, 2011

##### **Expert Discovery and Motions Deadlines for Group 5 Cases, Other Than Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports for both non-case specific and case-specific experts due – March 18, 2011
2. Deadline to depose plaintiffs' experts – June 17, 2011
3. Defendants' expert disclosures/reports due – July 8, 2011
4. Deadline to depose defendants' experts – October 7, 2011
5. Plaintiffs' rebuttal reports due – October 21, 2011
6. Deadline to depose plaintiffs' rebuttal experts – December 9, 2011
7. Deadline to file *Daubert* and dispositive motions – December 23, 2011
8. Deadline to file responses to *Daubert* and dispositive motions – January 24, 2012
9. Deadline to file replies regarding *Daubert* and dispositive motions – February 7, 2012

##### **Expert Discovery and Motions Deadlines for Group 5 Cases, Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports due – October 21, 2011
2. Deadline to depose plaintiffs' experts – December 9, 2011
3. Defendants' expert disclosures/reports due – January 6, 2012
4. Deadline to depose defendants' experts – February 24, 2012
5. Plaintiffs' rebuttal reports due – March 16, 2012
6. Deadline to depose plaintiffs' rebuttal experts – April 27, 2012
7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – May 18, 2012
8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – June 18, 2012

9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – July 2, 2012

#### **VII. Deadlines for Cases in Group 6**

The deadlines set forth below shall apply to cases in Case Group 6.

##### **Fact Discovery Deadlines for Group 6 Cases**

1. Plaintiffs' Fact Sheets due – August 30, 2010
2. YMMC and YMUS Fact Sheets due – September 29, 2010
3. Dealer Fact Sheets due, including any Common Fact Sheets required – September 29, 2010
4. YMC Fact Sheets due – October 29, 2010
5. Close of Fact Discovery – May 20, 2011

##### **Expert Discovery and Motions Deadlines for Group 6 Cases, Other Than Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports for both non-case specific and case-specific experts due – June 17, 2011
2. Deadline to depose plaintiffs' experts – September 16, 2011
3. Defendants' expert disclosures/reports due – October 7, 2011
4. Deadline to depose defendants' experts – January 6, 2012
5. Plaintiffs' rebuttal reports due – January 20, 2012
6. Deadline to depose plaintiffs' rebuttal experts – March 9, 2012
7. Deadline to file *Daubert* and dispositive motions – March 23, 2012
8. Deadline to file responses to *Daubert* and dispositive motions – April 23, 2012
9. Deadline to file replies regarding *Daubert* and dispositive motions – May 7, 2012

##### **Expert Discovery and Motions Deadlines for Group 6 Cases, Deferred Expert Categories**

1. Plaintiffs' expert disclosures/reports due – January 20, 2012
2. Deadline to depose plaintiffs' experts – March 9, 2012
3. Defendants' expert disclosures/reports due – April 6, 2012
4. Deadline to depose defendants' experts – May 25, 2012
5. Plaintiffs' rebuttal reports due – June 15, 2012
6. Deadline to depose plaintiffs' rebuttal experts – July 27, 2012
7. Deadline to file *Daubert* and dispositive motions and other pretrial motions – August 17, 2012
8. Deadline to file responses to *Daubert* and dispositive motions and other pretrial motions – September 17, 2012
9. Deadline to file replies regarding *Daubert* and dispositive motions and other pretrial motions – October 1, 2012

### **VIII. Deadlines for Cases in Subsequent Case Groups**

For each subsequent Case Group beginning with Case Group 7, the parties shall submit an agreed Case Management Order containing all case deadlines for cases in that Case Group. (If the parties have differing versions of such CMO, they shall separately submit their versions of the CMO with a brief of up to three pages supporting their version.) The agreed CMO or separate submissions shall be due 14 days prior to the date the new Case Group opens. (For example, Case Group 7 will consist of cases in which a Conditional Transfer Order is filed with the Clerk of this Court or the case is transferred from within this District to the MDL after July 31, 2010 and on or before October 31, 2010. Accordingly, the CMO for Case Group 7 or the parties' separate submissions shall be due on or before July 19, 2010.)

### **IX. Settlement Conference Schedule**

This Section IX supercedes in its entirety Section I of CMO No. 7. Settlement conferences to mediate or discuss settlement of MDL cases jointly selected by the parties shall occur on or about the following dates:

1. Weeks of December 6 and December 13, 2010: Cases jointly selected from Case Group 1
2. Weeks of March 21 and March 28, 2011: Cases jointly selected from Case Group 2
3. Weeks of June 20 and June 27, 2011: Cases jointly selected from Case Group 3
4. Weeks of September 19 and September 26, 2011: Cases jointly selected from Case Group 4
5. Weeks of December 5 and December 12, 2011: Cases jointly selected from Case Group 5.

Subsequent settlement conferences shall be held approximately every 13 weeks maintaining the pattern set forth above. The parties may adjust the scheduled dates for

settlement conferences by agreement and may include by agreement cases from any case group in any of the periodic settlement conference schedules.

**X. Modification**

The parties and Court acknowledge that modification of this CMO may be necessary based on experience operating under it, and any party is free to seek modification of this Order for good cause shown.

ORDERED on this 26<sup>th</sup> day of April, 2010.

  
JENNIFER B. COFFMAN  
U.S. DISTRICT JUDGE