

**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**

CASE MANAGEMENT ORDER NO. 12

I. Procedures for Non-Yamaha Defendants

On April 1, 2009, the Court appointed Karen Chrisman as Lead Counsel for Non-Yamaha Defendants (MDL Docket No. 43). On June 24, 2010, the Court granted Ms. Chrisman's motion to withdraw from that position (MDL Docket No. 1784) and ordered that any applications to fill the position be submitted by July 9, 2010 (MDL Docket No. 1785). No applications were filed.

Because Ms. Chrisman has withdrawn and no one has applied to replace her, this MDL will proceed without a Lead Counsel for non-Yamaha Defendants. All obligations of, and requirements imposed on other parties or counsel with respect to, Lead Counsel for the non-Yamaha Defendants (sometimes referred to as "Lead Counsel for the Other Defendants") contained in prior orders are voided by this Order. The provisions of this Order shall hereby govern notice to, service on and procedures regarding non-Yamaha Defendants; any provisions in prior orders addressing such issues are superseded.

A. Comprehensive List of Non-Yamaha Defendants

Lead Counsel for Plaintiffs and Lead Counsel for Yamaha have conferred and filed with the Court a list of all known non-Yamaha Defendants—other than those who are represented by

counsel for the Yamaha Defendants—including the case in which they are named, the name of the defendant, and, where applicable, the name and contact information of their counsel. Based on that list, the Court shall maintain and update a comprehensive list of all non-Yamaha Defendants and their counsel. Such list shall be available to all parties. To assist the Court, Lead Counsel for Plaintiffs and Lead Counsel for Yamaha shall file with the Court, quarterly, beginning January 3, 2011, an updated list of all known non-Yamaha Defendants and their counsel.

B. Service

To the extent prior CMOs or other orders called for the service of materials on Lead Counsel for the non-Yamaha Defendants, such materials, from the date of this Order forward, will instead be served on all non-Yamaha Defendants or their counsel, where applicable. Separate service, however, is not required on any non-Yamaha Defendants' counsel who are otherwise representing another party in the MDL such that service pursuant to this paragraph would be duplicative. This non-duplicative list of counsel on whom service must be made shall be known as the Non-Yamaha Defendants' Service List. Neither Plaintiffs nor the Yamaha defendants shall have an obligation to serve discovery materials, including Fact Sheets and documents responsive to Fact Sheets, on (i) any non-Yamaha Defendant who has not appeared in this action, through counsel or otherwise; or (ii) any non-Yamaha Defendant or his or her counsel unless the non-Yamaha Defendant or his or her counsel agrees in writing that they are bound by and will comply with all terms of the May 11, 2009 Stipulation and Agreed Protective Order Regarding the Confidentiality of Documents and Materials.

Case-specific materials do not need to be served on non-Yamaha Defendants except those defendants who are parties in the specific case.

Counsel for all non-Yamaha Defendants shall be added to the ECF service list in the Master Case in order to receive notice of all filings in the Master Case.

C. Notice of Hearings

When a telephonic or in-person hearing is scheduled, the Court shall provide notice to all parties and, where applicable, their counsel, on the Non-Yamaha Defendants Service List. To the extent a non-Yamaha Defendant intends to participate in any such hearing, they must advise the Court that they intend to participate and provide copies of the notice to Lead Counsel for the Plaintiffs and Lead Counsel for the Yamaha Defendants. For telephone hearings, such notice shall be provided by email and such non-Yamaha Defendant or its counsel may participate by phone. For any in-person hearing, such notice shall be provided in writing and such non-Yamaha Defendant or its counsel who elect to participate must appear in person at the hearing.

II. ECF Registration

Pursuant to the Second Order Regarding Practice and Procedure for Cases Filed in or Transferred to MDL 2016, entered October 13, 2009, all attorneys of record shall register to become an ECF user. Counsel need not be admitted in the Western District of Kentucky nor admitted pro hac vice in this MDL in order to register on ECF. Forms and instructions can be found on the Court's website at <https://kywd.uscourts.gov/CMECFWelcome.php>. Counsel new to MDL 2016 have 30 days from the filing of their appearance to complete their ECF registration. Failure to comply with this requirement will result in termination of the noticing feature of ECF for non-complying counsel.

III. 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 12th day of October, 2010.


JENNIFER B. COFFMAN
U.S. DISTRICT JUDGE