

Alex Sarria Quoted on 3M's GCD Argument in Combat Earplug Fight in Bloomberg Law

"3M Combat Earplug Fight at Crossroads as Court Strategies Falter"

BLOOMBERG LAW

10.03.2022

Alex Sarria recently commented in Bloomberg Law about mass tort lawsuits alleging that 3M produced defective combat earplugs for the U.S. military. Among other arguments, 3M claims on appeal that it is immune from suit under the government contractor defense (GCD). Sarria said that 3M's GCD appears to be strong, particularly as to the plaintiff's failure-to-warn claims, because the government said it would train its own soldiers about the proper way to use the earplugs and declined 3M's offer of help. He also noted that the district court judge "went an extra step" and took the GCD issue away from the jury, which could lead to reversal. Finally, Sarria observed that 3M has a tricky strategic decision to make on whether and when to settle the cases given the strength of its pending appeal: "Do you bank on the Eleventh Circuit," Sarria asked, "or do you settle now?"