

## Mass-Tort MDL Certificate Materials

Monday, November 9, 2020

### General Materials:

[Pending MDL Dockets by Actions Pending Oct. 15, 2020](#)  
[Pending MDL Dockets by District Oct. 15, 2020](#)  
[Pending MDL Dockets by MDL Type Oct. 15, 2020](#)  
[Multidistrict Litigation Terminated Jan. 1 - Oct. 15, 2020](#)  
[Cumulative Multidistrict Litigation Terminated Through Sept. 30, 2020](#)

### Session 1: The Decision to File - Purpose and timing of MDL; strategic decisions re timing, venue, and choice of law

Unique Aspects of MDLs:

[James G. Apple, Paula L. Hannaford, & G. Thomas Munsterman, Manual for Cooperation Between State and Federal Courts \(1997\), \(pp. 15-34, 48-54, 129-49\)](#)  
[Eldon E. Fallon, Jeremy T. Grabill & Robert Pitard Wynne, Bellwether Trials in Multidistrict Litigation, 82 Tul. L. Rev. 2323 \(2008\), passim](#)  
[Federal Judicial Center, National Center for State Courts, & Judicial Panel on Multidistrict Litigation, Coordinating Multijurisdiction Litigation: A Pocket Guide for Judges \(2013\), \(pp. 1-6, 8-13\)](#)  
[Paula L. Hannaford-Agor, Comment: Federal MCL Fourth and Suggestions for State Court Management of Mass Litigation \(National Center for State Courts 2006\), passim](#)  
[Judicial Panel on Multidistrict Litigation & Federal Judicial Center, Ten Steps to Better Case Management: A Guide for Multidistrict Litigation Transferee Judges \(2d ed. 2014\), at 1, 3-10](#)  
[Catherine R. Borden, Managing Related Proposed Class Actions in Multidistrict Litigation, FJC Pocket Guide, 2018, citing Manual for Complex Litigation, Fourth § 21.11 and 21.27 \(2004\) \(pp. 6-8, 10-11\)](#)

### Session 2: Initial Stages and the JPML - JPML hearing and lawyer presentations; how panel chooses transferee judge; trends in centralizing cases; role of Rules of Procedure; early steps of an MDL case; expectations of judges; broader goals of MDL and JPML

JPML Process:

[Panel Rules Effective Oct. 4, 2016](#)  
[Summary of Panel Rules Revised Oct. 4, 2010](#)  
[JPML Calendar Year Statistics - 2018](#)  
[JPML Calendar Year Statistics - 2019](#)  
[JPML Fiscal Year 2020 Statistical Analysis of Multidistrict Litigation through Sept. 30, 2020](#)

The First Six Months:

[Docetaxel PTO No. 85 for PTO No. 71A & Priv Log Deficiencies of Non-Bellwether Plaintiffs Nov. 13, 2018](#)  
[FXG Initial Scheduling Order Nov. 15, 2005](#)  
[Hill's Pet Nutrition Preliminary Practice and Procedure Order June 7, 2019](#)  
[Incretin Mimetics \(Byetta\) Order Granting Motion for Order Implementing PFS June 17, 2013](#)  
[Incretin Mimetics \(Byetta\) Order appointing PSC Oct. 21, 2013](#)  
[Incretin Mimetics \(Byetta\) Order Governing Filing of Master Complaint Dec. 2, 2013](#)  
[Incretin Mimetics \(Byetta\) Initial Scheduling Order re General Causation Feb. 18, 2014](#)  
[Incretin Mimetics \(Byetta\) CMO Establishing Common Benefit Fee & Expense Fund Aug. 26, 2014](#)  
[INVK CMO No. 6 Common Benefit Fee and Expense Funds Mar. 21, 2017](#)  
[INVK Amended CMO No. 6 Common Benefit Fee and Expense Funds Jan. 23, 2018](#)  
[Lipitor Amended CMO No. 6 Correcting Typographical Errors May 22, 2014](#)  
[Lipitor CMO No. 6B Amendment to CMO No. 6 May 29, 2014](#)  
[Pacquiao-Mayweather Order Appointing Lead and Liaison Counsel Dec. 11, 2015](#)  
[Pacquiao-Mayweather Order Accepting the Filing of Consolidated Complaints and Scheduling Order July 7, 2016](#)  
[PPI CMO No. 33 Selection of Bellwether Discovery and Trial Cases Nov. 20, 2019](#)  
[PPI CMO No. 35 Scheduling Order Bellwether July 1, 2019](#)  
[PPI CMO No. 36 Amended Scheduling Order Jan. 24, 2020](#)  
[PPI CMO No. 9 PFS \(2 Stages\) Feb. 5, 2018](#)  
[Skechers Order Establishing Plaintiffs' Fact Sheet Motion and PFS May 3, 2012](#)  
[Skechers Order re Early Mediation and Case Selection May 3, 2012](#)  
[Skechers PPO No. 2 Service and Direct Filing May 3, 2012](#)  
[Skechers PPO No. 3 Practice and Procedures - General May 3, 2012](#)  
[Skechers PPO No. 6 Common Benefit Fund May 3, 2012](#)  
[Skechers PPO No. 7 Expenses May 3, 2012](#)  
[Skechers PPO No. 8 Tolling Agreement May 3, 2012](#)  
[Skechers Protective Order May 3, 2012](#)  
[Skechers Scheduling Order No. 1 May 3, 2012](#)  
[Vioxx PTO No. 6 PSC Leadership Order Apr. 8, 2005](#)  
[Zolofit PTO No. 15 Joint Discovery & Scheduling Plan Nov. 16, 2012](#)  
[Zolofit PTO No. 20 Amending PTO No. 15 re Joint Discovery & Scheduling Plan Feb. 25, 2013](#)  
[Zolofit PTO No. 23 Amending PTOs 15 & 20 re Joint Discovery & Scheduling Plan Apr. 1, 2013](#)

Financing the Litigation:

[A bridge too far, An expert panel examines the promise and peril of third-party litigation financing, Judicature, Fall 2019 Vol 103 Num 3](#)  
[New York City Bar Association - Working Group on Litigation Funding Report Feb. 28, 2020](#)  
[Opioids Order re 3rd Party Lit Financing May 7, 2018](#)

Trial preparation:

[Judge Childs 2019 Year End MDL Statistics](#)  
[Docetaxel CMO No. 14C Amendments to Trial Pool Selection Apr. 23, 2019](#)  
[Zolofit PTO No. 44 Trial Pool Selection Protocol Dec. 4, 2013](#)

**Session 3: Breakout - Case Management:**

[Duties of Appointed Counsel 64 Loyola Law Review 1 \(Spring 2018\)](#)  
*Plaintiff - Conferring with individual plaintiffs: appointment of PSC and executive committees, organization of subcommittees; superior duty to the court and confidentiality limitations*  
[What Do MDL Leaders Do Evidence from Leadership Appointment Orders David Noll Feb. 2, 2020](#)  
*Defendant - Strategy and management of MDL from General Counsel and outside counsel perspectives; joint defense groups; financial responsibility among multiple parties (trial expenses and settlement); organization of tasks*

**Session 4: Case Management Order - Scope of order and detailed procedural roadmap; master pleadings; time and expense reporting; discovery coordination**

[Chinese Drywall PTO No. 1 Setting Initial Conference June 16, 2009](#)  
[Chinese Drywall Order and Reasons Common Benefit Fees Jan. 10, 2020](#)  
[Dicamba Herbicides CMO Crop Damage June 29, 2018](#)  
[J&J Talcum CMO No. 1 Dec. 6, 2016](#)  
[JuuL CMO No. 2 Initial Case Census Nov. 19, 2019](#)  
[Opioids CMO No. 1 Litigation Track Apr. 11, 2018](#)  
[Roundup PTO No. 3 Partial Schedule for General-Causation Nov. 23, 2016](#)  
[Roundup PTO No. 9 Scheduling Science Day Feb. 2, 2017](#)  
[Taxotere PTO No. 65 Procedure for Severance of Multi-Plaintiff Cases Oct. 16, 2017](#)  
[Taxotere CMO No. 12 Product ID Order Jan. 12, 2018](#)  
[TRT CMO No. 20 Master Pleadings Mar. 29, 2017](#)  
[TRT CMO No. 9 Plaintiff Fact Sheets and Records Authorization May 20, 2018](#)  
[Viagra PTO No. 5 Procedures for Direct Filing, Master Pleadings, and Service of Process Aug. 10, 2016](#)  
[Xarelto PTO No. 1 Setting Initial Conference Dec. 17, 2014](#)  
[Xarelto PTO No. 11 Bundling of Complaints and Answers May 4, 2015](#)  
[Zofran Order No. 11 PFS, Initial Production of Documents by Plaintiffs, Execution of Authorization May 26, 2016](#)  
[Zofran Order No. 14 Order Concerning Master Pleadings May 18, 2016](#)  
[Zolofit PTO No. 15 Joint Discovery and Scheduling Plan Nov. 16, 2012](#)

**Session 5: Breakout - Discovery: Discovery goals and priorities; litigation holds; ESI protocols; custodian lists; discovery negotiations; document review and privilege logs; responding to requests; experts**

Document Review and Privilege Logs:

[3M PTO No. 12 TAR Protocol July 1, 2019](#)  
[Docetaxel PTO No. 71A Plaintiffs Responsibilities Relevant to ESI Jan. 26, 2018](#)  
[Intel PTO No. 4 Protocol for Document Collection and Production Oct. 18, 2018](#)  
[Opioids Discovery Ruling No. 2 June 30, 2018](#)  
[Opioids Discovery Ruling No. 3 July 17, 2018](#)  
[Opioids Pharmacy Defendants' Objections to Discovery Rulings No. 2 and No. 3 July 24, 2018](#)  
[Opioids Manufacturer Defendants' Joint Objections to the Special Master's Discovery Rulings Nos. 2 and 3 July 24, 2018](#)  
[Opioids Order re Disc. Ruling Nos. 2 & 3 Aug. 8, 2018](#)  
[Skechers Discovery Order No. 1 General May 3, 2012](#)  
[Skechers Discovery Order No. 2 ESI May 3, 2012](#)  
[Skechers PPO No. 5 Preservation of Records May 3, 2012](#)  
[TRT CMO No. 15 Protocol for ESI Nov. 6, 2014](#)  
[Zantac PTO 29 Protocol for Discovery of Electronically Stored Information and Hard Copy Documents June 17, 2020](#)  
[Zantac PTO 48 Remote Deposition Guidelines Oct. 5, 2020](#)

Fact Discovery:

[Skechers PPO No. 4 Depositions May 3, 2012](#)  
[Zolofit R&R No. 2 re ex parte Contacts with Witnesses and Deposition Protocols June 13, 2013](#)

Expert Discovery:

[3M PTO No. 18 Initial Census Requirement, Oct. 22, 2019](#)  
[Docetaxel PTO No. 70B Contact with Physicians Nov. 13, 2018](#)  
[Opioids Order Establishing Deposition Protocol June 20, 2018](#)  
[Opioids CMO Discovery and Trial Preparation Sept. 5, 2018](#)  
[Opioids Order Expert Witness Disclosure Jan. 6, 2020](#)

**Session 6: Settlement** - *Timing; role of judge; use of mediators; project management, e.g., negotiations, principal players; remand*  
[The What and Why of Claims Resolution Facilities, Francis McGovern, 57 Stanford Law Review 1361-1389, 2005](#)  
[Opioids Memorandum Opinion Certifying Negotiation Class, Sept. 11, 2019](#)  
[The Negotiation Class, Francis McGovern, Elizabeth Burch, and William Rubenstein, Judicature, Vol. 104 No. 1, Spring 2020](#)  
[Opioids Sixth Circuit Opinion re Negotiation Class Sept. 24, 2020](#)  
Post-Trial Payouts:  
[Xarelto PTO No. 8 Post-Trial Payouts Feb. 13, 2015](#)  
[Chinese Drywall Order and Reasons - Final Approval Jan. 10, 2020](#)