

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875  
:  
VARIOUS PLAINTIFFS : Transferred from the Northern  
:  
v. : District of Ohio  
:  
VARIOUS DEFENDANTS : Certain "MARDOC" cases listed  
: in Exhibit "A," attached

MARDOC SUGGESTION OF REMAND (No. 9)

AND NOW, this 10th day of December, 2014, it is hereby  
ORDERED that, upon review of the cases listed in Exhibit "A,"  
attached, and based on the factors identified in the Court's  
Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that:

- a.) Plaintiffs have complied with MDL 875 Administrative  
Order No. 25, No. 02-875 (E.D. Pa. June 23, 2013), ECF  
No. 2614.
- b.) The parties have completed their obligations under the  
Rule 16 orders issued by the Court (see No. 02-875, ECF  
Nos. 594-600).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions.
- e.) Rule 18 settlement discussions have been exhausted in  
the transferee court. Some of the parties have

indicated that additional settlement discussions may be beneficial after the case is remanded to the transferor court.

- f.) The Court finds that the cases are prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).
- g.) The remaining viable defendants for trial in each case, according to Plaintiffs, are listed in Exhibit "B," attached.
- h.) The Court issued an opinion on punitive damages on July 9, 2014 (see No. 02-875, ECF No. 4376). Any punitive damages claims that remain in an individual case are also remanded to the transferor court.<sup>1</sup>

Accordingly, the Court **SUGGESTS** that the cases listed in Exhibit "A," attached, be **REMANDED** to the United States

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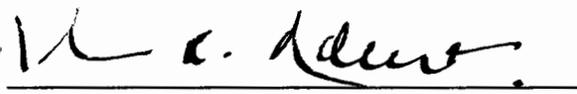
<sup>1</sup> On the Court's "land-based" docket, the MDL 875 Court has severed and retained most claims for punitive damages prior to the cases being remanded to the transferor courts. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999). The maritime docket (MARDOC) has proceeded along a different track. See Sanchez v. Various Defendants, No. 02-875, 2014 WL 3353044, at \*1 (E.D. Pa. July 9, 2014) (Robreno, J.). All remaining MARDOC cases should be closed or remanded in the near future. Accordingly, the Court deems it appropriate to remand all remaining claims in each of the MARDOC cases.

District Court for the **Northern District of Ohio** for resolution of all matters pending within each case.

Alternatively, the parties in each case have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated as to that case.

It is further **ORDERED** that all viable (non-bankrupt) defendants who are not identified in Exhibit "B" as a pending defendant in each case are **DISMISSED** from the respective case(s).

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
EDUARDO C. ROBRENO, J.

## SUGGESTION OF REMAND MEMORANDUM

Updated November 24, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

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### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties). Administrative Order No. 25 serves the same purpose for MARDOC cases.

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

**Exhibit A**

| <b>PA-E Case Number</b> | <b>Caption</b>                                       | <b>OH-N Case Number</b> |
|-------------------------|--|-------------------------|
| 2:11-cv-32128-ER        | POYADOU et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-12468                |
| 2:11-cv-32129-ER        | HOLMES et al v. A-C PRODUCT LIABILITY TRUST et al    | 96-13311                |
| 2:11-cv-32130-ER        | CANAYNAY et al v. A-C PRODUCT LIABILITY TRUST et al  | 96-12320                |
| 2:11-cv-32157-ER        | AHLES et al v. A-C PRODUCT LIABILITY TRUST et al     | 95-11870                |
| 2:11-cv-32159-ER        | RIVERS et al v. A-C PRODUCT LIABILITY TRUST et al    | 96-13740                |
| 2:11-cv-32160-ER        | HAMILTON et al v. A-C PRODUCT LIABILITY TRUST et al  | 95-13250                |
| 2:11-cv-32171-ER        | MILLER v. A-C PRODUCT LIABILITY TRUST et al          | 98-13734                |
| 2:11-cv-32173-ER        | RUSHING et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-11383                |
| 2:11-cv-32176-ER        | CASES et al v. A-C PRODUCT LIABILITY TRUST et al     | 96-13882                |
| 2:11-cv-32178-ER        | ENNA et al v. A-C PRODUCT LIABILITY TRUST et al      | 95-12772                |
| 2:11-cv-32189-ER        | CARPENTER et al v. A-C PRODUCT LIABILITY TRUST et al | 96-10325                |
| 2:11-cv-32191-ER        | HOY et al v. A-C PRODUCT LIABILITY TRUST et al       | 96-11141                |
| 2:11-cv-32195-ER        | OH et al v. A-C PRODUCT LIABILITY TRUST et al        | 95-12351                |
| 2:11-cv-32197-ER        | JONES et al v. A-C PRODUCT LIABILITY TRUST et al     | 96-11136                |
| 2:11-cv-32226-ER        | TUCKER v. A-C PRODUCT LIABILITY TRUST et al          | 96-11402                |
| 2:11-cv-32228-ER        | BOYER v. A-C PRODUCT LIABILITY TRUST et al           | 95-13917                |
| 2:11-cv-32235-ER        | RIVERA et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-12091                |
| 2:11-cv-32250-ER        | WILLIAMS v. A-C PRODUCT LIABILITY TRUST et al        | 95-13345                |
| 2:11-cv-32272-ER        | SHEA v. A-C PRODUCT LIABILITY TRUST et al            | 95-13352                |
| 2:11-cv-32280-ER        | HOBSON et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-11484                |
| 2:11-cv-32297-ER        | DINGILLO et al v. A-C PRODUCT LIABILITY TRUST et al  | 96-12835                |
| 2:11-cv-32298-ER        | BENNETT et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-11970                |
| 2:11-cv-32299-ER        | GRAFF et al v. A-C PRODUCT LIABILITY TRUST et al     | 96-12234                |
| 2:11-cv-32300-ER        | JORDAN et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-11491                |
| 2:11-cv-32301-ER        | CULP et al v. A-C PRODUCT LIABILITY TRUST et al      | 96-11354                |
| 2:11-cv-32308-ER        | WARD et al v. A-C PRODUCT LIABILITY TRUST et al      | 97-12372                |
| 2:11-cv-32311-ER        | HAUBER et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-13093                |
| 2:11-cv-32337-ER        | BOUCHARD et al v. A-C PRODUCT LIABILITY TRUST et al  | 95-13508                |
| 2:11-cv-32341-ER        | BRENNAN et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-11516                |
| 2:11-cv-32345-ER        | HARPER v. A-C PRODUCT LIABILITY TRUST et al          | 95-14863                |
| 2:11-cv-32354-ER        | LAMB v. A-C PRODUCT LIABILITY TRUST et al            | 96-13199                |
| 2:11-cv-32362-ER        | LIKIARDOPOULOS v. A-C PRODUCT LIABILITY TRUST et al  | 96-13298                |
| 2:11-cv-32363-ER        | WAURIN et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-13060                |
| 2:11-cv-32365-ER        | GACHETTE v. A-C PRODUCT LIABILITY TRUST et al        | 95-10987                |
| 2:11-cv-32374-ER        | PEKARSKI et al v. A-C PRODUCT LIABILITY TRUST et al  | 95-14208                |
| 2:11-cv-32375-ER        | CREMERS et al v. A-C PRODUCT LIABILITY TRUST et al   | 95-12289                |
| 2:11-cv-32383-ER        | DE VRIES et al v. A-C PRODUCT LIABILITY TRUST et al  | 96-15863                |
| 2:11-cv-32386-ER        | JOHNSON et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-15640                |
| 2:11-cv-32412-ER        | GOFORTH et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-10634                |
| 2:11-cv-32415-ER        | ESPINIA et al v. A-C PRODUCT LIABILITY TRUST et al   | 95-12824                |
| 2:11-cv-32420-ER        | WILLIAMS v. A-C PRODUCT LIABILITY TRUST et al        | 96-12637                |
| 2:11-cv-32475-ER        | KIEFER et al v. A-C PRODUCT LIABILITY TRUST et al    | 96-10499                |
| 2:11-cv-32477-ER        | MOORE et al v. A-C PRODUCT LIABILITY TRUST et al     | 96-15887                |
| 2:11-cv-32485-ER        | HOOPER et al v. FIBREBOARD CORPORATION et al         | 95-11485                |

|                  |  |          |
|------------------|--|----------|
| 2:11-cv-32491-ER | JENKINS et al v. A-C PRODUCT LIABILITY TRUST et al | 95-13428 |
| 2:11-cv-32503-ER | CASAVAN v. A-C PRODUCT LIABILITY TRUST et al       | 96-13557 |
| 2:11-cv-32517-ER | BOYLE et al v. A-C PRODUCT LIABILITY TRUST et al   | 96-11148 |
| 2:11-cv-32519-ER | HOKR et al v. A-C PRODUCT LIABILITY TRUST et al    | 95-13090 |
| 2:11-cv-32523-ER | PAYNE v. A-C PRODUCT LIABILITY TRUST et al         | 95-13659 |
| 2:11-cv-32543-ER | PEELE et al v. A-C PRODUCT LIABILITY TRUST et al   | 98-11963 |

Exhibit B

| <b>CIV</b>  | <b>NAME</b>            | <b>Defendant</b>                  |
|-------------|------------------------|-----------------------------------|
| 2:11CV32128 | Poyadou, Robert C      | Gatke Corporation                 |
|             |                        | General Refractories              |
| 2:11CV32129 | Holmes, Wilson         | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
| 2:11CV32130 | Canaynay, Florentino R | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
|             |                        | Pelican Marine Carriers Inc.      |
| 2:11CV32157 | Ahles, Christian O     | Gatke Corporation                 |
|             |                        | General Refractories              |
| 2:11CV32159 | Rivers, John D         | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
| 2:11CV32160 | Hamilton, Joseph L     | Chesterton Co., A. W.             |
|             |                        | Gatke Corporation                 |
|             |                        | General Refractories              |
| 2:11CV32171 | Borges, Frank A        | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
|             |                        | Murphy Pacific Marine Salvage Co. |
| 2:11CV32173 | Rushing, Thomas R      | Barber Asphalt Corp.              |
|             |                        | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
| 2:11CV32176 | Cases, Antonio         | Gatke Corporation                 |
|             |                        | General Refractories              |
|             |                        | John Crane Inc.                   |
| 2:11CV32178 | Enna, Anthony V        | Gatke Corporation                 |
|             |                        | General Refractories              |

| CIV         | NAME                | Defendant                   |
|-------------|---------------------|-----------------------------|
| 2:11CV32189 | Carpenter, John G   | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32191 | Hoy, Jr., Carl      | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32195 | Oh, Peter           | Chesterton Co., A. W.       |
|             |                     | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32197 | Jones, Stephen N    | Chesterton Co., A. W.       |
|             |                     | Gatke Corporation           |
|             |                     | General Refractories        |
| 2:11CV32226 | Tucker, Ronald B    | Chesterton Co., A. W.       |
|             |                     | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32228 | Boyer, Joseph D     | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32235 | Rivera, Juan D      | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32250 | Williams, Chester M | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
|             |                     | West Coast Shipping Company |
| 2:11CV32272 | Shea, Clifford C    | Chesterton Co., A. W.       |
|             |                     | Gatke Corporation           |
|             |                     | General Refractories        |
|             |                     | John Crane Inc.             |
| 2:11CV32280 | Hobson, Joseph N    | Gatke Corporation           |
|             |                     | General Refractories        |

| CIV         | NAME                            | Defendant                       |
|-------------|---------------------------------|---------------------------------|
| 2:11CV32297 | Dingillo, Vincent               | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32298 | Bennett, Walter L               | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |
| 2:11CV32299 | Graff, William                  | Chesterton Co., A. W.           |
|             |                                 | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |
| 2:11CV32300 | Jordan, Robert L                | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32301 | Culp, Larry F                   | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32308 | Ward, William H                 | Cosmopolitan Shipping Co., Inc. |
|             |                                 | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32311 | Hauber, Frank C                 | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32337 | Bouchard, Robert L              | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |
| 2:11CV32341 | Brennan, Roland J               | Chesterton Co., A. W.           |
|             |                                 | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |
| 2:11CV32345 | Harper, Vernon J                | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |
| 2:11CV32354 | Lamb, Robert A                  | Barber Asphalt Corp.            |
|             |                                 | Gatke Corporation               |
|             |                                 | General Refractories            |
| 2:11CV32362 | Likiardopoulos,<br>Alexandros I | Gatke Corporation               |
|             |                                 | General Refractories            |
|             |                                 | John Crane Inc.                 |

| CIV         | NAME                 | Defendant             |
|-------------|----------------------|-----------------------|
| 2:11CV32363 | Waurin, Walter       | Chesterton Co., A. W. |
|             |                      | Gatke Corporation     |
|             |                      | General Refractories  |
|             |                      | IMO Industries, Inc.  |
| 2:11CV32365 | Gachette, Randolph H | Gatke Corporation     |
|             |                      | General Refractories  |
|             |                      | John Crane Inc.       |
| 2:11CV32374 | Pekarski, Bernard J  | Gatke Corporation     |
|             |                      | General Refractories  |
|             |                      | John Crane Inc.       |
| 2:11CV32375 | Cremers, Albert L    | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32383 | De Vries, Edward J   | Chesterton Co., A. W. |
|             |                      | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32386 | Johnson, Joseph L    | Gatke Corporation     |
|             |                      | General Refractories  |
|             |                      | John Crane Inc.       |
| 2:11CV32412 | Goforth, Dennis R    | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32415 | Espina, John         | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32420 | Williams, Bernard R  | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32475 | Kiefer, Emil L       | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32477 | Moore, John C        | Chesterton Co., A. W. |
|             |                      | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32485 | Hooper, Harry J      | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32491 | Jenkins, Edward H    | Chesterton Co., A. W. |
|             |                      | Gatke Corporation     |
|             |                      | General Refractories  |
| 2:11CV32503 | Casavan, Daniel W    | Gatke Corporation     |
|             |                      | General Refractories  |

| CIV         | NAME            | Defendant                     |
|-------------|-----------------|-------------------------------|
| 2:11CV32517 | Boyle, Harlan J | Gatke Corporation             |
|             |                 | General Refractories          |
| 2:11CV32519 | Hokr, Richard G | Chesterton Co., A. W.         |
|             |                 | Gatke Corporation             |
|             |                 | General Refractories          |
| 2:11CV32523 | Payne, Dennis E | Chesterton Co., A. W.         |
|             |                 | Gatke Corporation             |
|             |                 | General Refractories          |
|             |                 | John Crane Inc.               |
| 2:11CV32543 | Peele, Robert L | Chesterton Co., A. W.         |
|             |                 | Gatke Corporation             |
|             |                 | General Refractories          |
|             |                 | John Crane Inc.               |
|             |                 | Mormac Marine Transport, Inc. |