

Asbestos Personal Injury Litigation in the Federal Courts: MDL-875

Eduardo C. Robreno, Presiding Judge
United States District Court for the Eastern District of
Pennsylvania

© June 12, 2009
As Amended
February 15,
2011

Status of MDL-875 as of 10/1/2008

- About 110,000 plaintiffs, each of whom had sued, on average, over 50 defendants.
- Estimated number of open claims in excess of 10 million.
- Maritime Docket (MARDOC): a separate docket consisting of about 42,000 cases.

Integration of Principles and Procedures

- The Flow Chart on the following slide illustrates how the Court is implementing its Case Management principles and procedures.

Progress since 1/1/2009

- Beginning in January of 2009, the Court has fully implemented the procedures described.
 - The Court began by addressing the “land-based” litigation in MDL-875.
 - In December of 2009, the Court began applying these procedures to the MARDOC cases.

CASE IS LISTED FOR HEARING

Voluntary
/Involuntary
Dismissal of Viable
Defendants

Contested
Compliance with
Admin. Ords.

Plaintiff has complied
with Admin. Ords. 11 &
12.

Non-Viable
Defendants →
Bankruptcy docket

Daubert
Hearing/ other
Evidentiary
Hearing

Rule 26(f) Report/ Rule
16 Conference

Settlement
Conference

Involuntary
Dismissal

Summary Judgment Motions Hearing
before District Judge or three judge
panel of Magistrate Judges

Settlement/Final Pretrial Conference

Malignancy & Non-Malignancy Tracks

Trial in E.D. Pa. or Remand to Transferor
District (pursuant to Admin. Ord. 18)

NOTE: A non-viable
defendant is a party
that is in bankruptcy
proceedings

**Cases Opened and Transferred to the Eastern District of Pennsylvania as Part of MDL 875
from November 2008 - December 2009**

	CASES TRANSFERRED TO EDPA	CLAIMS TRANSFERRED TO EDPA	CASES TERMINATED IN EDPA	CLAIMS TERMINATED NATIONWIDE	CASES ADDED TO BANKRUPTCY DOCKET	C.T.O.'S FILED
NOVEMBER 2008	1,024	33,982	2	2,304	2,064	0
DECEMBER 2008	834	16,112	12	4,278	143	56
JANUARY 2009	2,469	72,511	0	10,681	358	152
FEBRUARY 2009	1,253	35,222	5,233	216,095	222	542
MARCH 2009	1,891	40,890	1,463	282,683	0	762
APRIL 2009	2,433	51,932	3,187	149,129	695	72
MAY 2009	2,220	71,401	9,751	1,151,139	3,890	46
JUNE 2009	5,566	145,735	2,880	146,093	2,366	53
JULY 2009	4,463	114,537	4,588	404,157	4,576	24
AUGUST 2009	5,822	971,937	3,882	60,009	1,022	138
SEPTEMBER 2009	11,722	643,476	2,724	2,474,855	317	0
OCTOBER 2009	2,169	93,632	6,396	435,802	645	92
NOVEMBER 2009	1,169	53,768	3,366	77,986	2,618	53
DECEMBER 2009	1,009	41,843	2,179	155,072	4,187	43
TOTAL 11/1/2008 - 12/31/2009	44,044	2,386,978	45,663	5,570,283	23,103	2,033

**Cases Opened and Transferred to the Eastern District of Pennsylvania as Part of MDL 875
in 2010**

	CASES TRANSFERRED TO EDPA	CLAIMS TRANSFERRED TO EDPA	CASES TERMINATED IN EDPA	CLAIMS TERMINATED NATIONWIDE	CASES ADDED TO BANKRUPTCY DOCKET	C.T.O.S FILED
JANUARY 2010	426	12,185	2,408	59,644	727	1
FEBRUARY 2010	1,082	21,427	864	44,821	270	37
MARCH 2010	79	2,370	8,655	647,192	2,309	0
APRIL 2010	4,579	218,523	3,525	235,284	2,415	31
MAY 2010	2,754	75,420	8,806	553,430	2,726	62
JUNE 2010	856	6,321	14,244	1,071,056	770	0
JULY 2010	3,449	25,410	3,578	111,232	5,438	34
AUGUST 2010	6,280	46,208	11,785	114,556	5,273	91
SEPTEMBER 2010	1,852	33,072	569	7,714	4,814	13
OCTOBER 2010	2,480	101,484	1,203	23,675	5,343	9
NOVEMBER 2010	176	16,400	602	12,167	771	9
DECEMBER 2010	1,726	69,633	1,362	8,900	1,201	19
TOTAL 1/1/2010 - 12/31/2010	25,739	628,453	57,601	2,889,671	32,057	306

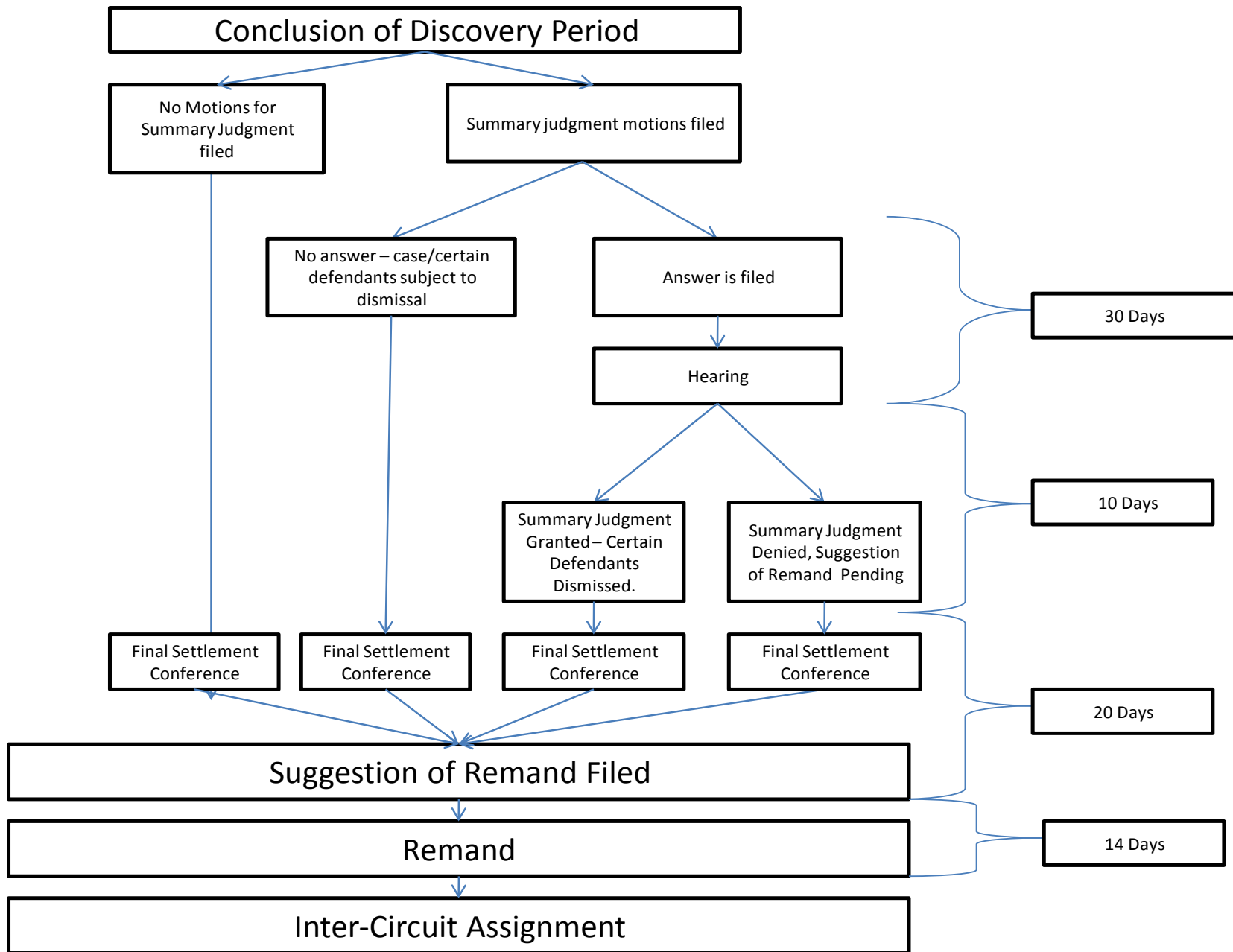
**Cases Opened and Transferred to the Eastern District of Pennsylvania as Part of MDL 875
in 2011**

	CASES TRANSFERRED TO EDPA	CLAIMS TRANSFERRED TO EDPA	CASES TERMINATED IN EDPA	CLAIMS TERMINATED NATIONWIDE	CASES ADDED TO BANKRUPTCY DOCKET	C.T.O.S FILED
JANUARY 2011	97	6,010	489	117,555	66	11
FEBRUARY 2011						
MARCH 2011						
APRIL 2011						
MAY 2011						
JUNE 2011						
JULY 2011						
AUGUST 2011						
SEPTEMBER 2011						
OCTOBER 2011						
NOVEMBER 2011						
DECEMBER 2011						
TOTAL 1/1/2011 - 1/31/2011	97	6,010	489	117,555	66	11

Case Totals 2006-2011

	CASES TRANSFERRED TO EDPA	CASES TERMINATED IN EDPA	CASES PENDING IN EDPA	
8/1/2006 - 10/31/2008	53,849	1,809	AS OF 10/31/08	52,040
11/1/2008 - 12/31/2009	44,044	45,663	AS OF 12/31/09	50,421
1/1/2010 - 12/31/2010	25,739	57,601	AS OF 12/31/10	18,559
1/1/2011- 1/31/2011	97	489	AS OF 1/31/11	18,167
TOTAL	123,729	105,562	AS OF 1/31/11	18,167*

***7,265 Referred to Magistrate Judges and Judge Reed**



Summary Judgment Procedure

- As of the response date for motions for summary judgment, the Court can ascertain the number of cases/claims that may be remanded.
- If some or all of the motions in a case are opposed, a hearing on those motions will be scheduled within 30 days.

All MDL 875 Cases Hearing Dates

available at: <http://www.paed.uscourts.gov/documents/MDL/MDL875/Remand%20Dates%201.24.pdf>

Jurisdiction (and Magistrate Judge)	# of Cases	Hearing Date	Sugg. Of Remand Date
D. ME	60	9.22.2010	10.22.2010
D.N.H.	60	9.22.2010	10.22.2010
D.MASS	30	9.22.2010	10.22.2010
D. DEL	1	10.5.2010	11.5.2010
W.D. PA	10	10.5.2010	11.5.2010
D.N.J	approx. 300	10.5.2010	11.5.2010
D. MINN	249	10.5.2010	11.5.2010
W.D. MO	6	10.5.2011	11.5.2010
E.D. MO	37	10.5.2010	11.5.2010
D. IA	5	10.5.2010	11.5.2010
D. KS	2	10.5.2010	11.5.2010
D. UT	9	10.5.2010	11.5.2010
D.N.M	18	10.5.2010	11.5.2010
D. W. Y	4	10.5.2010	11.5.2010
E.D. OK	9	10.21.2010	11.19.2010
N.D. OK	11	10.21.2010	11.19.2010
W.D. OK	10	10.21.2010	11.19.2010
D. OR	1	10.21.2010	11.19.2010
D. MT	2	10.21.2010	11.19.2010
D. ID	2	10.21.2010	11.19.2010
D. NM	3	10.21.2010	11.19.2010
W.D. WA	19	10.21.2010	11.19.2010
E.D. WA	1	10.21.2010	11.19.2010
CAL	12	10.21.2010	11.19.2010
D.C.	1	11.2.2010	12.2.2010
S.D. FL	1	11.2.2010	12.2.2010
N.D.W.V	1	11.2.2010	12.2.2010
S.D.W.V.	9	11.2.2010	12.2.2010
D. ME	1	11.2.2010	12.2.2010
D.N.J	8	11.16.2010	12.16.2010
E.D. KY	53	11.16.2010	12.16.2010
E.D. TN	2	11.16.2010	12.16.2010
W.D. TN	69	11.16.2010	12.16.2010
D. MD	639	12.7.2010	1.7.2011

N.D. FL	16	12.14.2010	1.14.2011
S.D. FL	190	12.14.2010	1.14.2011
S.D. GA	464	12.14.2010	1.14.2011
E.D. TX	1	12.14.2010	1.14.2011
D. ID	1	12.14.2010	1.14.2011
N.D. AL	3	1.11.2011	2.11.2011
S.D. AL	1	1.11.2011	2.11.2011
M.D. MS	3	1.11.2011	2.11.2011
D.DEL	1	1.11.2011	2.11.2011
S.D. TX	47	1.11.2011	2.11.2011
W.D. TX	3	1.11.2011	2.11.2011
N.D. TX	206	1.11.2011	2.11.2011
D.N.H	1	1.11.2011	2.11.2011
<i>UT, CA-S, WA-W (Judge Rueter)</i>	3	<i>1.11.2011</i>	2.11.2012
<i>W.D. WA (Judge Strawbridge)</i>	1	<i>1.11.2011</i>	2.11.2013
D. KY	3	1.25.2011	2.25.2011
M.D. GA	1	1.25.2011	2.25.2011
D. LA	32	1.25.2011	2.25.2011
D.AK	4	1.25.2011	2.25.2011
D.AZ	1	1.25.2011	2.25.2011
<i>S.C. (Judge Angell)</i>	<i>approx. 530</i>	<i>1.25.2011</i>	2.25.2011
<i>UT (Judge Angell)</i>	1	1.25.2011	2.25.2011
<i>UT, AL-M, GA-N (Judge Rueter)</i>	3	1.25.2011	2.25.2011
C.D. ILL	160	2.8.2011	3.8.2011
N.D. ILL	5	2.8.2011	3.8.2011
S.D. ILL	45	2.8.2011	3.8.2011
E.D. WI	8	2.8.2011	3.8.2011
D. ME	57	2.8.2011	3.8.2011
S.D. IN	54	2.8.2011	3.8.2011
<i>LA-M (Judge Angell)</i>	2	2.8.2011	3.8.2011

W.D.N.C.	36	2.22.2011	3.22.2011
E.D.N.C	36	2.22.2011	3.22.2011
M.D.N.C	36	2.22.2011	3.22.2011
S.C.	36	2.22.2011	3.22.2011
N.D. OH	27	2.22.2011	3.22.2011
S.D. OH	27	2.22.2011	3.22.2011
E.D. MI	27	2.22.2011	3.22.2011
W.D. MI	27	2.22.2011	3.22.2011
<i>OK-W Wilkins (09-92451) (Judge Hey)</i>	<i>1</i>	<i>2.22.2011</i>	<i>3.22.2011</i>
<i>FL-S (Judge Rueter)</i>	<i>1</i>	<i>2.22.2011</i>	<i>3.22.2011</i>
<i>GA-S (Judge Angell)</i>	<i>approx. 350</i>	<i>2.22.2011</i>	<i>3.22.2011</i>
E.D. TX	50	3.8.2011	4.8.2011
S.D. IN	3	3.8.2011	4.8.2011
D. ME	3	3.8.2011	4.8.2011
S.D.N.Y	337	3.22.2011	4.22.2011
<i>N.D. (Judge Rueter)</i>	<i>approx. 80</i>	<i>3.22.2011</i>	<i>4.22.2011</i>
<i>D.C. (Judge Rueter)</i>	<i>1</i>	<i>3.22.2011</i>	<i>4.22.2011</i>
E.D.N.Y	266	4.5.2011	5.5.2011
D. UT	1	4.5.2011	5.5.2011
E.D. TX	1	4.5.2011	5.5.2011
<i>Levy Phillips II (Judge Hey)</i>	<i>3</i>	<i>4.5.2011</i>	<i>5.5.2011</i>
<i>Wallace and Graham II (Judge Hey)</i>	<i>441</i>	<i>4.5.2011</i>	<i>5.5.2011</i>
S.D. MS	286	4.26.2011	5.26.2011
D.MT	9	5.18.2011	5.29.2011
<i>WA-W, N.D. AL, E.D. LA (Judge Rueter)</i>	<i>3</i>	<i>5.18.2011</i>	<i>5.29.2011</i>
<i>N.D. CAL (Judge Rueter)</i>	<i>approx 192</i>	<i>5.18.2011</i>	<i>5.29.2011</i>
<i>NC (Wallace and Graham III)(Judge Hey)</i>	<i>367</i>	<i>5.18.2011</i>	<i>5.29.2011</i>
E.D. VA	5,900	6.6.2011	7.5.2011

← Hearings still
to be completed
in bold

Various Districts	62	6.14.2011	7.14.2011
<i>E.D. VA (Judge Strawbridge)</i>	2	6.14.2011	7.24.2011
Various Districts	5	6.28.2011	7.28.2011
<i>C.D. CA (Judge Angell)</i>	2	6.28.2011	7.28.2011
<i>RI, CT (Judge Rueter)</i>	4	6.28.2011	7.28.2011
<i>Wallace and Graham IV (Judge Hey)</i>	367	6.28.2011	7.28.2011
<i>RI (Judge Hey)</i>	1	6.28.2011	7.28.2011
<i>CT (Judge Strawbridge)</i>	13	7.7.2011	8.7.2011
<i>MS Motley Rice (Judge Hey)</i>	95	7.12.2011	8.12.2011
<i>NC Ward Black (Judge Hey)</i>	200	7.12.2011	8.12.2011
<i>NC</i>	2	7.12.2011	8.12.2011
E.D. PA	2	7.26.2011	N/A
D.N.J	1	8.9.2011	9.9.2011
<i>N.D. (Judge Rueter)</i>	128	8.23.2011	9.23.2011
<i>CA (Judge Hey)</i>	1	8.23.2011	9.23.2011
<i>LA (Judge Hey)</i>	1	8.23.2011	9.23.2011
<i>CAL-C (Judge Angell)</i>	1	10.1.2011	11.1.2011
<i>GA-S (Judge Angell)</i>	1	10.5.2011	11.5.2011

MDL 875 Hearing Results

Hearing Date	Cases Listed	Transferor Districts	Opposed Motions	Remands
9.22.10	150	NH, MA, ME	0	0
10.5.10	617	MO, UT, NM, WDPA, NJ, WY, DE, KS, IA	31 (in 7 cases)	41
10.21.10	37	OK, OR, MT, ID, NM, WA, CA	4 (in 3 cases)	2
11.2.10	16	DC, FL, WV, ME	3 in (2 cases)	2
11.17.10	165	NJ, KY, TN	8 (in 3 cases)	1
12.7.11	639	MD	10 (in 10 cases)	10
12.14.11	250	FL, GA, TX, ID	6 (in 4 cases)	5
1.11.11	230	AL, MC, DEL, TX, NH	13 (in 4 cases)	2
1.25.11	600	KY, GA, LA, AK, AZ, SC	18 (in 15 cases)	15
2.8.11	66	ILL, WI, ME, IN	2 (in 2 cases)	2 (potential)
2.22.11		NC, OH, MI		
3.8.11		TX, IN, ME, NY, ND		
TOTALS	2770*		95	80

***2690 cases settled, dismissed to bankruptcy only docket or dismissed for lack of prosecution.**

Breakdown of all Cases Pending in MDL 875

All cases pending	18,167
Subject to Summary Judgment Hearings	-9,181
	8,986
Cases recently opened in the system that will likely be dismissed	-4,738
Cases that will be closed subject to docket clean up	-1,148
Cases in which settlement is nearly finalized and dismissal is forthcoming	-1,000
	2,100
Cases referred to Judge Reed	-2,000
Newly transferred cases with 2011 hearings	100

Status of MARDOC

- As of December 2009, MARDOC contained approximately 40,000 plaintiffs.
- The Court has separated these cases and will be administering MARDOC independently of the “land-based” litigation
- All of the cases were administratively dismissed in 1996
 - Each case is being reactivated, but is kept separate from “land-based” cases for statistical purposes

Administration of MARDOC

- Number of cases transferred (or to be transferred):
44,492
- Elimination of claims
 - Plaintiffs' original complaints name approximately 150 defendants in each case.
 - Plaintiffs' Counsel has agreed to dismiss all but 15 defendants in each remaining MARDOC case
- Plaintiffs' counsel has voluntarily dismissed approx. 41,000 cases and is moving forward with 3,384 cases.
- Further administrative procedures to be implemented to promote settlement and/or begin dismissals.

Remaining Cases in MDL-875 as of February 15, 2011

UNITED STATES DISTRICT COURT
 JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
 875 -IN RE: Asbestos Products Liability Litigation (No.VI)
 PENNSYLVANIA EASTERN

FROM 2006-2011	CASES	CASES	CASES
	TRANSFERRED	TERMINATED	REMAINING
	TO EDPA	IN EDPA	IN EDPA
LAND CASES	123,729	105,562	18,167
MARDOC	44,492*	41,108	3,384
TOTAL	163,584	142,908	21,551

***Subject to
 processing of case
 files.**