

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. 40)

AND NOW, this 31st day of July, 2015, 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.



Handwritten signature of Eduardo C. Robreno, J. The signature is written in black ink and is highly stylized, with a long horizontal stroke extending to the right.

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](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](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.

<b>Exhibit A</b>		
<b>PA-E Case Number</b>		<b>OH-N Case Number</b>
2:11-cv-31578-ER	LOPEZ v. FOSTER WHEELER COMPANY et al	94-11050
2:11-cv-31591-ER	MC FARLANE et al v. A-C PRODUCT LIABILITY TRUST et al	98-13292
2:11-cv-31597-ER	MILLER et al v. FOSTER WHEELER COMPANY et al	94-10699
2:11-cv-32104-ER	RICE v. A-C PRODUCT LIABILITY TRUST et al	96-15131
2:11-cv-32355-ER	MC CLENDON v. A-C PRODUCT LIABILITY TRUST et al	96-15004
2:11-cv-32547-ER	ETTL et al v. A-C PRODUCT LIABILITY TRUST et al	95-12047
2:11-cv-32653-ER	GROSSMAN et al v. A-C PRODUCT LIABILITY TRUST et al	97-13591
2:11-cv-32665-ER	JONES et al v. A-C PRODUCT LIABILITY TRUST et al	95-10314
2:11-cv-32748-ER	DEMBO et al v. AMERICAN CONDOR STEAMSHIP CORP. et al	92-11097
2:11-cv-32787-ER	AYALA et al v. FOSTER WHEELER COMPANY et al	94-10896
2:11-cv-32815-ER	LONG et al v. A-C PRODUCT LIABILITY TRUST et al	94-14103
2:11-cv-32857-ER	SMITH v. FOSTER WHEELER COMPANY et al	94-10133
2:11-cv-32864-ER	MEDINA et al v. MOORE MCCORMACK LINES INC. et al	86-02682
2:11-cv-32875-ER	CATALAN et al v. ACANDS, INC. et al	89-15472
2:11-cv-32904-ER	MEDINA et al v. AMERICAN EXPORT LINES INC. et al	92-10268
2:11-cv-33205-ER	WALTON et al v. A-C PRODUCT LIABILITY TRUST et al	95-11658
2:11-cv-33208-ER	RUIZ et al v. A-C PRODUCT LIABILITY TRUST et al	00-11523
2:11-cv-33229-ER	RICE et al v. CLEVELAND CLIFFS S.S. COMPANY et al	86-03001
2:11-cv-33267-ER	LEWIS v. A-C PRODUCT LIABILITY TRUST et al	96-12526
2:11-cv-33273-ER	KING et al v. A-C PRODUCT LIABILITY TRUST et al	95-14837
2:11-cv-33322-ER	MILLER et al v. MOORE MC CORMACK LINES, INC. et al	86-02631
2:11-cv-33363-ER	GLOVER ET. AL. v. FOSTER WHEELER COMPANY ET. AL.	94-12847
2:11-cv-33364-ER	PEOPLES ET. AL. v. A-C PRODUCT LIABILITY TRUST ET. AL.	96-12708
2:11-cv-33371-ER	VAN WINKLE et al v. A-C PRODUCT LIABILITY TRUST et al	94-13955
2:11-cv-33448-ER	TRIPLETT v. A-C PRODUCT LIABILITY TRUST et al	00-11679
2:11-cv-33483-ER	WADDELL et al v. AMERICAN EXPORT ISBRANDTSEN et al	93-11645
2:11-cv-33491-ER	DUQUE et al v. FOSTER WHEELER COMPANY et al	93-13606
2:11-cv-33495-ER	CASTRO et al v. FOSTER WHEELER COMPANY et al	93-10099
2:11-cv-33499-ER	BRANCH et al v. AMERICAN EXPORT ISBRANDTSEN et al	93-11428
2:11-cv-33504-ER	CRESPO et al v. A-C PRODUCT LIABILITY TRUST et al	97-15045
2:11-cv-33516-ER	SMITH et al v. ACANDS, INC. et al	89-15619
2:11-cv-33541-ER	HUGHES et al v. AMERICAN EXPORT LINES, INC. et al	86-01641
2:11-cv-33544-ER	FLORES et al v. AMERICAN FOREIGN LINES et al	86-01621
2:11-cv-33566-ER	MARSONEK et al v. A-C PRODUCT LIABILITY TRUST et al	95-10015
2:11-cv-33591-ER	MILLER v. A-C PRODUCT LIABILITY TRUST et al	98-14606
2:11-cv-33594-ER	WHITFIELD v. A-C PRODUCT LIABILITY TRUST et al	96-11588
2:11-cv-33596-ER	CRUZ v. FOSTER WHEELER COMPANY et al	94-12443
2:11-cv-33601-ER	ALBERT v. FOSTER WHEELER COMPANY et al	94-10342
2:11-cv-33603-ER	SHELTON v. ACANDS, INC. et al	90-11151
2:11-cv-33605-ER	JOHNSON v. FOSTER WHEELER COMPANY et al	93-10370
2:11-cv-33623-ER	DAMON, SR. v. A-C PRODUCT LIABILITY TRUST et al	95-13554
2:11-cv-33640-ER	ANNIS et al v. CLEVELAND CLIFFS IRON COMPANY et al	93-12166
2:11-cv-33725-ER	MORAN et al v. A-C PRODUCT LIABILITY TRUST et al	96-12314

2:11-cv-33734-ER	GRANGER et al v. FOSTER WHEELER COMPANY et al	93-13197
2:11-cv-33797-ER	MENENDEZ et al v. AMERICAN EXPORT LINES INC. et al	91-10275
2:11-cv-33799-ER	PRESTON et al v. A C S INDUSTRIES, INC. et al	88-04736
2:11-cv-33814-ER	NORIEGA et al v. AMERICAN EXPORT ISBRANDTSEN et al	93-13055
2:11-cv-33821-ER	MONTENEGRO et al v. FOSTER WHEELER COMPANY et al	93-13302
2:11-cv-33872-ER	WASHINGTON et al v. A-C PRODUCT LIABILITY TRUST et al	96-13872
2:11-cv-33944-ER	TORRES et al v. A-C PRODUCT LIABILITY TRUST et al	96-11112

**EXHIBIT B**

Civil Action No.	Name	Remand Defendant
2:11CV31578	Lopez, Alberto	Crowley Towing & Transp. Co.
2:11CV31591	McFarlane, Andrew L	John Crane Inc.
2:11CV31597	Miller, Juan A	United Fruit Company
		American South African Lines
		New York & Cuba Mail S/S Co.
		John Crane Inc.
2:11CV32104	Rice, Kevin A	American Steamship Co.
		Armstrong Steamship Co.
		John Crane Inc.
2:11CV32355	McClendon, Lenward C	American Export Lines Inc.
		John Crane Inc.
2:11CV32547	Ettl, Theodore	American Export Lines Inc.
		Standard Oil Co. of New Jersey
		Exxon Company USA
2:11CV32653	Grossman, Jacob A	Cleveland Tankers Inc.
		American Oil Co.
		Miss. Valley Barge Line Co.
		Mississippi Valley Barge
		Twin City Barge & Towing Co.
		BP Corporation N.A.
2:11CV32665	Jones, Sr., Willis	Farrell Lines Inc.
		American Export Isbrandtsen
		Trinidad Corporation
		John Crane Inc.
2:11CV32748	Dembo, Edward	United Fruit Company
		Oswego Steamship Co.
		John Crane Inc.
2:11CV32787	Ayala, Juan	United Fruit Company
		American Oil Co.
		Mississippi Valley Barge
		New York & Cuba Mail S/S Co.
		Amoco SS Company
		John Crane Inc.
2:11CV32815	Long, Lewis D	United Fruit Company
		John Crane Inc.
2:11CV32857	Smith Sr., Isaiah	American Export Isbrandtsen
2:11CV32864	Medina, Sr., David	American Export Lines Inc.
		Farrell Lines Inc.
		American Export Isbrandtsen
		United Fruit Company
		John Crane Inc.
2:11CV32875	Catalan, Adolfo Matta	United Fruit Company
		Aluminun Line
		John Crane Inc.

2:11CV32904	Medina, Guillermo M	Gulf Oil Company
		United Fruit Company
		New York Cuba Mail Co.
		BP Corporation N.A.
		John Crane Inc.
2:11CV33205	Walton, Jr., Samuel D	United Fruit Company
		John Crane Inc.
2:11CV33208	Ruiz, Ronald D	United Fruit Company
		John Crane Inc.
2:11CV33229	Rice, Carl W	Interlake Steamship Company
		Cleveland Cliffs S.S. Company
		Cleveland Cliffs Iron Company
2:11CV33267	Lewis, Flenall	United Fruit Company
		John Crane Inc.
2:11CV33273	King, Weaver H	American Export Lines Inc.
		United Fruit Company
		American Oil Co.
2:11CV33322	Gonzalez, Enrique	United Fruit Company
		Pan American Petroleum and Transport Company
		John Crane Inc.
2:11CV33363	Glover, Clarence	American Export Lines Inc.
		Trinidad Corporation
		United Fruit Company
		Mathiasen Tanker Ind. Inc.
		John Crane Inc.
2:11CV33364	Peoples, Billie J	Mobil Oil Corporation
		United Fruit Company
		Exxon Mobil Corporation
		John Crane Inc.
2:11CV33371	Van Winkle, Paul J	Farrell Lines Inc.
		Trinidad Corporation
		John Crane Inc.
2:11CV33448	Triplett, Norman	Richfield Oil Corporation
		Mathiasen Tanker Ind. Inc.
		John Crane Inc.
2:11CV33483	Waddell, David S	American Export Lines Inc.
		Farrell Lines Inc.
		American Export Isbrandtsen
		Pan American Petroleum and Transport Company
		John Crane-Houdaille, Inc.
2:11CV33491	Duque, Joseph	United Fruit Company
2:11CV33495	Castro, Jesus	United Fruit Company

2:11CV33499	Branch Jr., Arthur	American Export Isbrandtsen John Crane-Houdaille, Inc.
2:11CV33504	Crespo, Victor F	United Fruit Company John Crane Inc.
2:11CV33516	Smith, Robert A	Cities Service Oil Company Boland & Cornelius John Crane Inc.
2:11CV33541	Hughes, Clarence L	United Fruit Company BP Corporation N.A. John Crane Inc.
2:11CV33544	Flores, Teodoro M	Amoco Oil Co. Kinsman Lines Inc. Amoco Shipping Co.
2:11CV33566	Marsonek, Bernard T	Pan American Petroleum and Transport Company Trinidad Corporation American Oil Co. The Valley Line Co. John Crane Inc.
2:11CV33591	Briscoe, John C	United Fruit Company Pan American Petroleum and Transport Company John Crane Inc.
2:11CV33594	Whitfield, James F	Farrell Lines Inc. Trinidad Corporation Atlantic Refining Company Standard Oil Co. of New Jersey John Crane Inc.
2:11CV33596	Cruz, Donald	Sinclair Refining Company United Fruit Company John Crane Inc.
2:11CV33601	Albert, Robert T	United Fruit Company
2:11CV33603	Shelton, Jr., Allen C	Esso Standard Oil Co. Humble Oil & Refining Company Exxon Company USA Exxon Shipping Co.
2:11CV33605	Johnson, Wilbanks	Amoco Oil Co. United Fruit Company Moore McCormack Bulk Transport Inc. Barber Asphalt Corp. Pan American Petroleum and Transport Company

2:11CV33623	Damon Sr., Francis H	Farrell Lines Inc.
		Mobil Oil Corporation
		United Fruit Company
		Moore McCormack Bulk Transport Inc.
		Continental Oil Company
		John Crane Inc.
2:11CV33640	Annis, Robert W	Cleveland Cliffs Iron Company
		John Crane-Houdaille, Inc.
2:11CV33725	Moran, Eugene J	American Export Lines Inc.
		Barber Asphalt Corp.
		John Crane Inc.
2:11CV33734	Granger, Roynald A	United Fruit Company
2:11CV33797	Menendez, Roben	American Export Lines Inc.
		Amoco Shipping Co.
2:11CV33799	Preston, Michael J	American Export Isbrandtsen
		Trinidad Corporation
		American Oil Co.
		John Crane-Houdaille, Inc.
2:11CV33814	Noriega, Vincente	United Fruit Company
		New York Cuba Mail Co.
		John Crane Inc.
2:11CV33821	Montenegro, Augustin	United Fruit Company
		Barber Asphalt Corp.
2:11CV33872	Washington, Wilbert G	United Fruit Company
		Oswego Steamship Co.
2:11CV33944	Torres, Rudolph	United Fruit Company
		John Crane Inc.