

MASS TORTS: Brief History & Overview

MASS TORTS: WHAT'S HOT AND WHAT'S NOT IN 2020
PENNSYLVANIA ASSOCIATION FOR JUSTICE WINTER 2020 CLE
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Terminology:

- ▶ Mass Torts
- ▶ Toxic Torts
- ▶ MDLs
- ▶ Class Actions
- ▶ Consumer Class Actions
- ▶ Products Liability
- ▶ Dangerous Pharmaceuticals
- ▶ Defective Medical Devices

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What is a Mass Tort?

- ▶ "A **mass tort** is a **civil action** involving numerous **plaintiffs** against one or a few **defendants** in state or federal court. The lawsuits arise out of the defendants causing numerous injuries through the same or similar act of harm (e.g. a **prescription drug**, a **medical device**, a **defective product**, a **train accident**, a **plane crash**, **pollution**, or a construction disaster)."

https://en.wikipedia.org/wiki/Mass_tort (last visited Jan. 10, 2020)

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Federal Multidistrict Litigation ("MDL")

- ▶ "Multidistrict litigation is litigation comprised of multiple civil cases involving one or more common questions of fact, but the cases are pending in different districts. Such actions may be transferred to any single district for coordinated or consolidated pretrial proceedings. These transfers are made by the [United States Judicial Panel on Multidistrict Litigation](#) authorized by 28 U.S.C. § 1407. Actions will be transferred for the convenience of the parties and witnesses and to promote the just and efficient conduct of such actions. More information on multidistrict litigation can be obtained from the United States Judicial Panel on Multidistrict Litigation at <http://www.jpml.uscourts.gov>."

<https://www.paed.uscourts.gov/documents2/mdl> (last visited Jan. 8, 2020)

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Federal MDLs – Current Statistics:

Count = 132,380 Pending Actions



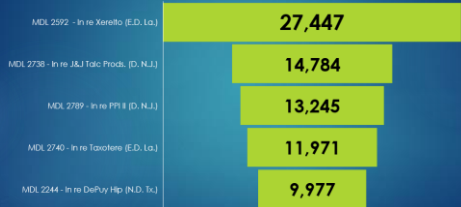
- MDLs with Between 0 and 10 Pending Actions (56 Dockets)
- MDLs with Between 11 and 100 Pending Actions (84 Dockets)
- MDLs with Between 101 and 999 Pending Actions (27 Dockets)
- MDLs with 1,000 or More Pending Actions (22 Dockets)

https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDLS_by_Actions_Pending-December-16-2019.pdf (last visited Jan. 10, 2020)

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Top 5 Federal MDLs:

(By Total Actions Currently Pending)



https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDLS_by_Actions_Pending-December-16-2019.pdf (last visited Jan. 10, 2020)

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Current MDLs Pending in E.D. Pa.:

- ▶ MDL 875 In Re: Asbestos Products Liability Litigation (No. VI)
 - ▶ MDL 1203 In Re: Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation
 - ▶ MDL 1871 In Re: Avandia Marketing, Sales Practices and Products Liability Litigation
 - ▶ MDL 2002 In Re: Processed Egg Products Antitrust Litigation
 - ▶ MDL 2323 In Re: National Football League Players' Concussion Injury Litigation
 - ▶ MDL 2342 In Re: Zolof Products Liability Litigation
 - ▶ MDL 2436 In Re: Tylenol (Acetaminophen) Marketing, Sales Practices and Products Liability Litigation
 - ▶ MDL 2437 In Re: Domestic Drywall Antitrust Litigation
 - ▶ MDL 2724 In Re: Generic Pharmaceuticals Pricing Antitrust Litigation
 - ▶ In Re: Breast Implant Cases
- <https://www.paed.uscourts.gov/documents2/mdl> (last visited Jan. 8, 2020)

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Current MDLs Pending in M.D. Pa.:

- ▶ MDL 2816 – In re: Sorin 3T Heater-Cooler System

<https://www.pamd.uscourts.gov/news/mdl-2816-re-sorin-3t-heater-cooler-system> (last visited Jan. 10, 2020)

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Current MDLs Pending in W.D. Pa.:

- ▶ MDL -2842 IN RE: Diisocyanates Antitrust Litigation
- ▶ MDL -2850 IN RE: Railway Industry Employee No-Poach Antitrust Litigation

https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDls_by_District-December-16-2019.pdf (last visited Jan. 10, 2020)

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Current MDLs Pending in D. N.J.:

- ▶ Benicar MDL 2606
- ▶ Invokana MDL 2750
- ▶ J & J Talcum MDL 2738
- ▶ Plavix MDL 2418
- ▶ Proton-Pump MDL 2789
- ▶ Valsartan MDL 2875
- ▶ American Medical Collection Agency, INC. 2904
- ▶ Allergan Biocell Textured Breast Implants 2921

<https://www.njd.uscourts.gov/mdl-cases> (last visited Jan. 8, 2020)

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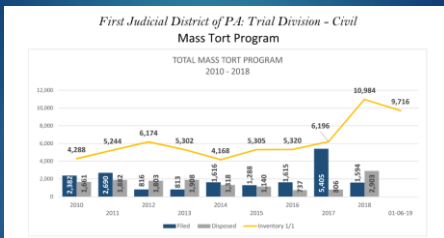
PCCP Complex Litigation Center - Active Mass Torts in Philadelphia:

- ▶ Asbestos
- ▶ Essure Products Liability
- ▶ Firefighters' Hearing Loss
- ▶ Paxil-Pregnancy
- ▶ Pelvic Mesh Litigation
- ▶ Phen-Fen
- ▶ Reglan
- ▶ Riperdal
- ▶ Xarelto
- ▶ Vena Cava Filter
- ▶ Yaz Yasmin Ocella

<https://www.courts.phila.gov> (last visited Jan. 8, 2020)

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Philadelphia Mass Tort Statistics:



<https://www.courts.phila.gov/pdf/cpcivil/2018-Mass-Tort-Program-Report.pdf> (last visited Jan. 8, 2020)

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Philadelphia Statistics (cont.):

- ▶ Philadelphia Court of Common Pleas = #1 on 2019-20 "Judicial Hellholes" Report

https://www.judicialhellholes.org/wp-content/uploads/2019/12/ATRA_JH19_layout_FINAL.pdf (last visited Jan. 8, 2020)

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NJ Multicounty Litigation ("MCL")s:

- ▶ Atlantic County
- ▶ Bergen County
- ▶ Middlesex County

<https://njcourts.gov/attorneys/mcl/index.html> (last visited Jan. 8, 2020)

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Helpful Links & Resources:

- ▶ Articles
- ▶ Third Branch Interviews
- ▶ Panel Presentations
- ▶ Treatises
- ▶ Multijurisdiction Litigation Guide -- Federal and State Coordination

<https://www.jpml.uscourts.gov/legal-resources> (last visited Jan. 8, 2020)

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Helpful Links & Resources (cont.):

- ▶ **Coordination Between Federal and State Courts:**
<https://multijurisdictionlitigation.wordpress.com/> (last visited Jan. 8, 2020)
- ▶ **Appendix of General Resources:**
<https://multijurisdictionlitigation.wordpress.com/appendix-general-resources/>
(last visited Jan. 8, 2020)

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Thank You!

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