

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  
 : District of Ohio  
 v. :  
 : Certain "MARDOC" cases listed  
VARIOUS DEFENDANTS : in Exhibit "A," attached

MARDOC SUGGESTION OF REMAND (No. 1)

AND NOW, this 24th day of November, 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](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.

## Exhibit A

PA-E Case Number	Caption	OH-N Case Number
2:09-cv-30168-ER	LANE v. A-C PRODUCT LIABILITY TRUST et al	01-10055
2:09-cv-30311-ER	JENNINGS v. A-C PRODUCT LIABILITY TRUST et al	00-12204
2:10-cv-30539-ER	MORELAND v. A C PRODUCT LIABILITY TRUST et al	04-10017
2:10-cv-30644-ER	LACRE v. A-C PRODUCT LIABILITY TRUST et al	01-10826
2:10-cv-38004-ER	BARTEL (WEEKLY) et al v. A-C PRODUCT LIABILITY TRUST et al	98-13381
2:10-cv-38019-ER	BARTEL (TREPAGNIER) et al v. A-C PRODUCT LIABILITY TRUST et al	99-12023
2:10-cv-50818-ER	ELLISON v. ACORN IRON & SUPPLY CO. et al	10-10003
2:11-cv-30059-ER	BOBBITT v. A-C PRODUCT LIABILITY TRUST	97-12099
2:11-cv-30103-ER	AUGUSTINE et al v. FOSTER WHEELER COMPANY et al	94-10506
2:11-cv-30110-ER	ARNOLD v. A-C PRODUCT LIABILITY TRUST et al	00-10693
2:11-cv-30133-ER	BAUTISTA et al v. FOSTER WHEELER COMPANY et al	94-11292
2:11-cv-30148-ER	MILLER v. A-C PRODUCT LIABILITY TRUST et al	98-11530
2:11-cv-30156-ER	BLACKBURN et al v. A-C PRODUCT LIABILITY TRUST et al	97-12286
2:11-cv-30158-ER	BLAKE v. A-C PRODUCT LIABILITY TRUST et al	99-10204
2:11-cv-30190-ER	BUGANAN et al v. A-C PRODUCT LIABILITY TRUST et al	97-14776
2:11-cv-30193-ER	BURA v. A-C PRODUCT LIABILITY TRUST et al	00-10667
2:11-cv-30205-ER	CALLAHAN et al v. A-C PRODUCT LIABILITY TRUST et al	97-10391
2:11-cv-30213-ER	CANITES et al v. A-C PRODUCT LIABILITY TRUST et al	99-13011
2:11-cv-30218-ER	CARTWRIGHT v. A-C PRODUCT LIABILITY TRUST et al	95-12769
2:11-cv-30220-ER	CASSIDY et al v. A-C PRODUCT LIABILITY TRUST et al	99-12979
2:11-cv-30252-ER	FERRELL et al v. FOSTER WHEELER COMPANY et al	94-11306
2:11-cv-30299-ER	CONTI v. FOSTER WHEELER COMPANY et al	93-13975
2:11-cv-30310-ER	COVILL et al v. A-C PRODUCT LIABILITY TRUST et al	98-14149
2:11-cv-30330-ER	DAVENPORT et al v. FOSTER WHEELER COMPANY et al	93-13128
2:11-cv-30423-ER	HAZEN et al v. A-C PRODUCT LIABILITY TRUST et al	99-10673
2:11-cv-30424-ER	HAZZARD et al v. A-C PRODUCT LIABILITY TRUST et al	97-10102
2:11-cv-30428-ER	HENDERSON et al v. A-C PRODUCT LIABILITY TRUST et al	96-10810
2:11-cv-30448-ER	DUNSON et al v. FOSTER WHEELER COMPANY et al	93-14155
2:11-cv-30449-ER	DURNIN et al v. A-C PRODUCT LIABILITY TRUST et al	00-11257
2:11-cv-30488-ER	MATHERNE et al v. A-C PRODUCT LIABILITY TRUST et al	98-10327
2:11-cv-30514-ER	MEGNA et al v. A-C PRODUCT LIABILITY TRUST et al	00-10841
2:11-cv-30528-ER	MILLS et al v. A-C PRODUCTS LIABILITY TRUST et al	00-11391
2:11-cv-30558-ER	NG et al v. FOSTER WHEELER COMPANY et al	93-14120
2:11-cv-30560-ER	BARTEL v. AMERICAN PRESIDENT LINES LTD., et al	95-10764
2:11-cv-30587-ER	O'TOOLE v. A-C PRODUCT LIABILITY TRUST et al	96-13474
2:11-cv-30595-ER	MILLER v. A-C PRODUCT LIABILITY TRUST et al	98-10140
2:11-cv-30599-ER	PALMER et al v. A-C PRODUCT LIABILITY TRUST et al	95-10075
2:11-cv-30610-ER	BARTEL v. AMERICAN PRESIDENT LINES LTD., et al	97-13172
2:11-cv-30618-ER	HOPKINS v. A-C PRODUCT LIABILITY TRUST et al	98-14734
2:11-cv-30619-ER	HORDEN et al v. FOSTER WHEELER COMPANY et al	94-10461
2:11-cv-30676-ER	BARTEL et al v. A-C PRODUCT LIABILITY TRUST et al	98-13865
2:11-cv-30697-ER	LARKIN v. A-C PRODUCT LIABILITY TRUST et al	98-14194
2:11-cv-30703-ER	LAU et al v. A-C PRODUCT LIABILITY TRUST et al	97-11060

2:11-cv-30715-ER	LEWIS et al v. A-C PRODUCT LIABILITY TRUST et al	97-13762
2:11-cv-30792-ER	TUILEFANO et al v. A-C PRODUCT LIABILITY TRUST et al	96-15851
2:11-cv-30812-ER	VIERTEL et al v. A-C PRODUCT LIABILITY TRUST et al	99-13082
2:11-cv-30822-ER	WARE v. A-C PRODUCT LIABILITY TRUST et al	00-10808
2:11-cv-30831-ER	WELBURN v. A-C PRODUCT LIABILITY TRUST et al	99-12120
2:11-cv-30839-ER	WHITTEN v. A-C PRODUCT LIABILITY TRUST et al	97-13746
2:11-cv-30860-ER	MILLER v. A-C PRODUCT LIABILITY TRUST et al	98-10105

## Exhibit B

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
2:09CV30168	Lane, Stephen J	Gatke Corporation
		General Refractories
2:09CV30311	Jennings, Charles F	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:10CV30539	Moreland, Cardy	Gatke Corporation
		General Refractories
		Gulf Oil Company
		Gulf Trading & Transport
		John Crane Inc.
		Mathiasen Tanker Ind. Inc.
		Trinidad Corporation
2:10CV30644	Lacre, Metrofanos V	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:10CV38004	Weekly, Warren R	Chesterton Co., A. W.
		Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:10CV38019	Trepagnier, Fred J	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:10CV50818	Ellison, Edwin H	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30059	Bobbitt, Charles F	Chesterton Co., A. W.
		Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30103	Augustine, Fred L	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
2:11CV30110	Arnold, Donald E	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30133	Bautista, Ronald	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30148	Best, Alwyn S	Gatke Corporation General Refractories John Crane Inc.
2:11CV30156	Blackburn, Elbert J	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30158	Blake, Edgar A	Gatke Corporation General Refractories IMO Industries, Inc.
2:11CV30190	Buganan, Ceferino C	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30193	Bura, Arturo A	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30205	Callahan, Harold K	Gatke Corporation General Refractories John Crane Inc.
2:11CV30213	Canites, Alfred	Gatke Corporation General Refractories IMO Industries, Inc. John Crane Inc.
2:11CV30218	Cartwright, Harry M	Gatke Corporation General Refractories John Crane Inc.
2:11CV30220	Cassidy, Terry L	Gatke Corporation

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
		General Refractories
		IMO Industries, Inc.
2:11CV30252	Ferrell, Gordon D	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30299	Conti, Joseph	IMO Industries, Inc.
2:11CV30310	Covill, Daniel K	Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30330	Davenport, James P	Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30423	Hazen, Harold C	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
		Texaco Inc.
		Tidewater Oil Company
2:11CV30424	Hazzard Jr., Lewis J	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30428	Henderson, Ray W	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:11CV30448	Dunson, Meredith S	IMO Industries, Inc.
2:11CV30449	Durnin, Patrick L	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
2:11CV30488	Matherne, Ivy E	Chesterton Co., A. W.
		Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:11CV30514	Megna, Joseph R	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30528	Mills, Crosby	
		Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30558	Ng, Shell M	IMO Industries, Inc.
2:11CV30560	Nielsen, Vagn Teddy	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30587	O'Toole, Joseph M	Chesterton Co., A. W.
		Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30595	Pai, Ernest D	Gatke Corporation
		General Refractories
2:11CV30599	Palmer, Lloyd T	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30610	Peacock Jr., Mose	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
2:11CV30618	Hopkins, Leroy K	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30619	Horden, Eugene	IMO Industries, Inc.
2:11CV30676	Kimoto, Charles T	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30697	Larkin, Thomas F	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30703	Lau, King T	Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30715	Lewis, Richard D	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30792	Tuilefano, Faia A	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
		John Crane Inc.
2:11CV30812	Viertel, Earl W	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:11CV30822	Ware, Eli J	Gatke Corporation
		General Refractories
		IMO Industries, Inc.
2:11CV30831	Welburn, Ralph L	Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30839	Whitten, Walter H	Chesterton Co., A. W.

<b>Civil Action No.</b>	<b>Name</b>	<b>Pending Defendants</b>
		Gatke Corporation
		General Refractories
		John Crane Inc.
2:11CV30860	Wolsing, Ben	Gatke Corporation
		General Refractories
		John Crane Inc.