



UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION FREQUENTLY ASKED QUESTIONS

I. ALL PLEADINGS FILED BEFORE THE PANEL

❖ HOW SHOULD PLEADINGS BE FORMATTED FOR SUBMISSION TO THE PANEL?

Heading: Before the Judicial Panel on Multidistrict Litigation

MDL No. {insert appropriate # or leave blank for
new MDL} – MDL caption

TAG-ALONG MATTERS: Must reference the short case caption(s), district(s) and case number(s) or attach schedule with cases listed.

NEW MOTIONS: Must have a separate schedule of actions with the **complete case captions. Cases must have a district civil action number and be available in PACER. Do not include state court case numbers.** (Do not use the abbreviation *et al.*)

RESPONSES TO NEW MOTIONS: **Do not** require a schedule of actions.

Start out all pleadings by identifying the party filing the paper (e.g. plaintiff or defendant) and identify the party(s) by name. No double-sided papers.

On the signature page be sure to include the filing attorney's name, firm, address, phone number, fax number and the names of the parties represented.

❖ HOW MANY COPIES OF MY PLEADING ARE REQUIRED?

An original (or fax) of the following papers is required: proof of service; notice of appearance; corporate disclosure statement; status notice; notice of opposition; notice of related action; application [request] for extension of time; and notice of presentation or waiver of oral argument. **An original and four copies of all other papers are required.**

Rule 5.12 was modified on 4/29/05. [Click here to view the JPML rules.](#)

❖ **WHAT IS THE BEST METHOD FOR TRANSMITTAL OF PLEADINGS TO THE PANEL?**

Consider using overnight delivery service in lieu of U.S. Postal Service (USPS). All USPS mail being delivered to Washington, DC, is subject to being irradiated and may be funneled through more than one U.S. Post Office before being delivered. This process will cause substantial delay in delivery.

A Notice of Opposition or time sensitive status notification should be submitted via fax to: **202-502-2888**.

❖ **WHAT ELSE IS REQUIRED?**

A disk of your pleading in Adobe Acrobat (PDF) format, Rule 5.13 (modified 7/30/07).

A proof of service for new MDL matters shall indicate the name and complete address of each person served and shall indicate the party(s) represented by each. Once a “Panel Service List” has been received from the Clerk of the Panel, the “Panel Service List” shall be utilized for service of responses by attaching the list to your proof of service. See Rule 5.2.

II. NEW MATTERS BEFORE THE PANEL

❖ **WHAT IS REQUIRED TO FILE A MOTION FOR SECTION 1407 TRANSFER BEFORE THE PANEL?**

Two civil cases with common questions of fact must be pending in two federal district courts. See **28 U.S.C. §1407** and **Rules of Procedure for the Judicial Panel on Multidistrict Litigation**.

You must have a motion, brief, schedule of actions and proof of service. See Rule 7.2 Motion Practice. **Click to view the Checklist for Filing a New MDL Motion** which also contains sample formats for a motion, brief, schedule of actions and proof of service.

Please include a courtesy copy of each complaint.

❖ **IF A MOTION HAS ALREADY BEEN FILED WITH THE PANEL, DO I NEED TO FILE MY OWN MOTION TO ASK FOR A DIFFERENT TRANSFeree DISTRICT?**

No. You may present arguments for a different transferee district in your response. All venue arguments will be considered by the Panel.

❖ **I UNDERSTAND THERE IS A MOTION TO TRANSFER PENDING BEFORE THE PANEL, AND I HAVE RECENTLY FILED A COMPLAINT THAT WOULD POTENTIALLY BE RELATED. WHAT CAN I DO TO LET THE PANEL KNOW ABOUT MY CASE AND MY POSITION ON THE QUESTION OF SECTION 1407 TRANSFER?**

You may file an “Interested Party Response.” An interested party is not required to adhere to the briefing schedule established for the motion to transfer; however, the Interested Party Response should be submitted as soon as possible to ensure that there is ample time for it to be reviewed by the Panel. In an introductory paragraph, identify the party(s) you represent and include the case caption, district and civil action number of the case. Also, include a courtesy copy of the complaint for the new case.

❖ **HOW SHOULD COUNSEL NOTIFY THE PANEL ABOUT POTENTIALLY-RELATED ACTIONS?**

The best method is to submit a paper titled “Notice of Related Actions.” The paper merely needs to alert the Panel of the pendency of these additional related actions. You should only include “new” actions on your notice. If there are numerous actions, please attach a schedule grouped by district in ascending alphabetical order and within each district list cases in ascending order by civil action number. Please feel free to call the staff at the Panel to ask for the most recent case listing; our phone number is **202-502-2800**.

❖ **CAN I FILE A NOTICE OF APPEARANCE FOR MY RELATED ACTION?**

No. We only file appearances for cases that are part of the motion before the Panel. As a result, counsel appearing in the related actions will not be listed on the Panel Attorney Service List.

❖ **I FILED THE MOTION NOW BEFORE THE PANEL AND EXPECT NUMEROUS OTHER CASES TO BE FILED IN THE NEAR FUTURE. HOW DO I AMEND MY MOTION?**

Contact the Chief Deputy Clerk of the Panel to establish a time frame for submitting the amendment to your motion; if you file it too late it will not be briefed in time for the Panel hearing session. It is best to submit just one amendment to avoid setting numerous briefing schedules.

To file your amendment, prepare a pleading titled “Amendment to Motion for Transfer.” This pleading should not repeat previous arguments and does not require a separate brief. You will need a “Schedule of Additional Actions” and a Proof of Service. The proof of service must state that you have served all new counsel with a copy of the amendment as well as the previously filed motion papers and must also state that counsel previously served with the original motion are now being served with the amendment. Your proof of service must include the name and address of the attorneys served and identify the party(s) each attorney represents. If a Panel Attorney Service List has been prepared for those included on the initial motion, the list should be referenced in and attached to your proof of service and the list should be supplemented to include any additional new counsel.

III. CONDITIONAL TRANSFER ORDER

When a potential “tag-along action” is brought to the attention of the Panel, the Clerk of the Panel may enter an order transferring that action to the previously designated transferee court to become part of the existing MDL docket. This “Conditional Transfer Order” (CTO) is served on the counsel obtained from the district court docket sheet and other counsel from the existing MDL docket. Transmittal to the involved clerks is stayed for 15 days in order to afford all parties an opportunity to oppose transfer.

❖ **WHAT FORMAT SHOULD I USE TO FILE A NOTICE OF OPPOSITION TO A CONDITIONAL TRANSFER ORDER (CTO)?**

You may use a letter or pleading to submit your notice of opposition to a CTO. You must include the MDL docket number and caption, the short caption of the case whose transfer you are opposing, along with the name of the district court where the case is pending and the civil action number. If you use a letter, address it to the Clerk of the Panel. If you use a pleading, head it with “Before the Judicial Panel on Multidistrict Litigation.” As with all papers submitted to the

Panel, be sure to identify the party you represent on the last page of the pleading. See Rule 7.1 (e). [Click to see a Checklist for Filing a Notice of Opposition](#) and a [sample notice of opposition](#).

❖ **CAN I FAX MY NOTICE OF OPPOSITION?**

Yes. We find that faxing is the most reliable method of timely submitting oppositions. Fax to: **202-502-2888**

❖ **DO I NEED TO SERVE MY NOTICE OF OPPOSITION ON OTHER COUNSEL?**

No. When you fax your notice of opposition to the Panel, the transfer is stayed and a letter is sent to you by the Panel with a copy to the counsel on the Panel Service List. This correspondence serves as notification that the opposition has been filed with the Panel and establishes the briefing schedule.

❖ **ONCE I HAVE PROVIDED MY NOTICE OF OPPOSITION, DO I NEED TO DO ANYTHING ELSE?**

Yes. The notice must be followed within fifteen days by a motion to vacate the CTO and a brief supporting the motion. Failure to file timely the required motion and brief will be deemed as withdrawal of the notice of opposition.

❖ **HOW DO I KNOW WHO TO SERVE WITH MOTION TO VACATE THE CTO?**

A Panel Service List will be attached to the letter you receive from the Panel. You will be instructed to serve your motion papers on those counsel and to prepare a proof of service certifying that you served the “attached” Panel Service List. See Rule 5.2 (a). Please do not retype our list.

Note: *The Panel Service List may encompass substantially fewer counsel than those listed on the Involved Counsel List attached to the CTO, especially if there were numerous actions on the CTO, so please be sure to use the Panel Service List. Failure to attach a copy of the Panel Service List may lead to delay in filing documents with the Panel.*

❖ **WHEN IS MY MOTION TO VACATE THE CTO DUE AT THE PANEL?**

The motion papers are due in the Panel office 15 calendar days after the notice of opposition is filed with the Panel. An exception is made if the timely opposition was filed after the due date for oppositions (for example, the next business day), then the motion papers would be due in 14 calendar days. Counsel are expected to use reliable courier or delivery services to ensure timely filing with the Panel.

IV. GENERAL QUESTIONS ABOUT FILING A REPLY

❖ **WHO MAY FILE A REPLY?**

Only the movant may file a reply.

❖ **WHEN IS MY REPLY DUE?**

The reply is due in the Panel office **five business days** after the lapse of time period for filing responses. If any of the responses were served by regular mail, you may add three additional business days to the due date. This three-day grace period is only for filing a reply.

V. RECENT DEVELOPMENTS

❖ **I HAVE ALREADY FILED MY PAPERS WITH THE PANEL AND THE OTHER RESPONDING COUNSEL HAVE PROVIDED THE PANEL WITH ERRONEOUS INFORMATION. HOW DO I BRING THIS TO THE PANEL'S ATTENTION?**

You should file a paper captioned "Supplemental Information" as soon as possible. The paper should be direct and identify the inaccuracies with supporting information. This pleading should be served on the Panel Service List.

❖ **SEVERAL CASES THAT ARE CURRENTLY BEFORE THE PANEL HAVE BEEN REMANDED TO STATE COURT OR DISMISSED. HOW DO I NOTIFY THE PANEL OF THE RECENT DEVELOPMENTS?**

You should prepare a letter the Clerk of the Panel stating the current status of the cases and include a copy of the pertinent orders. Fax transmission to the Panel at **202-502-2888** is preferred. Service of the papers may not be necessary.

VI. MATTERS SET FOR HEARING

❖ WHEN WILL MY MOTION BE SET FOR HEARING?

Although we cannot offer a definitive date, the Panel generally holds hearing sessions every two months. Hearings are traditionally held during the months of January, March, May, July, September and November. Shortly after a hearing session has concluded, the next hearing session is scheduled. A notice of hearing is sent out to counsel approximately 45 days prior to the hearing date. The notice of hearing is also available as a PDF document on the Panel website.

❖ WILL I BE ALLOWED TO PRESENT ORAL ARGUMENT?

Matters set for hearing are divided into two categories: matters set for oral argument and matters considered without oral argument. If your matter is set for oral argument, you will be provided with a form titled “Notice of Presentation or Waiver of Oral Argument.” The form must be returned to the Panel office by a specific date and must be served on the other counsel. You must have a written response on file with the Panel in order to present oral argument.

❖ MAY I PRESENT ORAL ARGUMENT IF I AM AN INTERESTED PARTY?

Yes, as long as you have a written response on file with the Panel and have submitted and served a “Notice of Presentation or Waiver of Oral Argument.”