

**BEFORE THE UNITED STATES  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re: Fresenius GranuFlo/NaturaLyte  
Dialysate Litigation

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MDL No. 2428

**FRESENIUS' RESPONSE TO MOTION FOR TRANSFER**

Fresenius USA, Inc.; Fresenius USA Manufacturing, Inc.; Fresenius USA Marketing, Inc.; and Fresenius Medical Care Holdings, Inc. (collectively, "Fresenius") hereby respond to the motion for transfer filed by Patricia Jones and Dwaine Haerinck (the "Movants") on December 12, 2012.<sup>1</sup> (Doc. 1.) As explained below, Fresenius agrees with the Movants that all pending federal actions involving GranuFlo and NaturaLyte should be transferred to the District of Massachusetts.

**INTRODUCTION**

For decades, Fresenius has been a worldwide leader in providing the products and services necessary for hemodialysis treatment—the only alternative to kidney transplant for patients suffering from end-stage renal disease. Today, the services division within Fresenius operates more than 3,100 dialysis clinics worldwide, treating more than 256,000 patients. In 2011, it provided 34.3 million dialysis treatments. In addition, the products division within Fresenius is a leading provider of dialysis products such as dialysis machines, dialyzers, and

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<sup>1</sup> The undersigned counsel has also entered appearances on behalf of named defendants Fresenius USA Sales, Inc., and Fresenius Medical Care North America, Inc. According to the Massachusetts Secretary of State's records, Fresenius USA Sales, Inc. was dissolved in March 2010. "Fresenius Medical Care North America" is merely a "d/b/a" label; there is no legal entity by that name.

disposable dialysate components. (The dialysate is the fluid solution used in filtering the patient's blood; it supplies electrolytes and other useful ions to the blood, while receiving waste products from the blood.) The pending federal cases involve two of those dialysate components, acid concentrates known as GranuFlo and NaturaLyte. These products are "medical devices" regulated by the U.S. Food and Drug Administration.

As of the date of this filing, 37 cases involving GranuFlo and NaturaLyte are pending in federal district courts in Alabama, California, Florida, Georgia, Louisiana, Massachusetts, Mississippi, New Jersey, New York, Ohio, and Pennsylvania. The plaintiffs in each case allege that the use of GranuFlo and NaturaLyte in dialysis treatment caused cardiopulmonary injuries, including cardiac arrest and death. The plaintiffs assert product-liability claims—typically strict liability (design defect and failure to warn), negligence, and breach of warranty. Some plaintiffs also assert misrepresentation and state-law consumer-protection claims. Movants have asserted that "hundreds, if not thousands, of cases may eventually be filed." (Doc. 1 at 3 n.2.)

The plaintiffs' claims will fail on their merits because the plaintiffs cannot show that Fresenius' products are unreasonably dangerous or that Fresenius failed to provide adequate warnings and instructions to the "learned intermediaries" who used GranuFlo and NaturaLyte to treat dialysis patients. In the nearly 20 years since FDA approved GranuFlo and its predecessor products, physicians have used those products safely in millions of dialysis treatments. Even now, GranuFlo and NaturaLyte remain on the market and continue to be used safely in clinics throughout the country. For years, Fresenius has provided accurate information about the composition and proper use of GranuFlo, NaturaLyte, and other products—information that treating physicians add to their own professional medical knowledge in determining the

appropriate treatment for their individual patients. Although the injuries alleged by these plaintiffs are serious, the plaintiffs will not be able to prove that those injuries were actually caused by Fresenius products or the information that Fresenius provided about those products. And without that causal link, there can be no recovery against Fresenius.

The question for the Panel, of course, is not the merits but the venue. And on that question, Fresenius agrees with the Movants that the pending federal cases should be centralized in a single district for pretrial litigation. Although the pending cases present significant individualized issues—concerning each patient’s unique medical history and physiological characteristics, the information provided to each patient’s prescribing physician, and the physician’s reliance (or non-reliance) on such information—all the cases share “common questions of fact” concerning, for instance, the design and manufacture of GranuFlo and NaturaLyte and the content of common medical knowledge about the risks associated with dialysis treatment. Discovery and pretrial litigation relating to those common questions should be centralized in one venue. At the same time, centralization would be convenient for the parties and witnesses, would conserve resources, and would promote an efficient resolution of these cases.

Fresenius also agrees with the Movants (and other plaintiffs) that the most appropriate venue for an MDL proceeding is the District of Massachusetts. Plaintiffs have already filed six cases in the District of Massachusetts. That District is also the most convenient for the parties, and in particular for Fresenius, which has its principal place of business there. Additionally, most of the documents and witnesses relating to Fresenius’ knowledge and conduct likely are located in the District of Massachusetts. Finally, available data indicate that the District of

Massachusetts is capable of handling an MDL proceeding, and the judges there have relevant experience handling such proceedings.

## ARGUMENT

### **I. The Pending Federal Cases Should Be Transferred Under 28 U.S.C. § 1407(a).**

The Panel should grant the motion for transfer because the pending cases—all of which assert product-liability claims relating to GranuFlo and NaturaLyte—are appropriate for centralization of pretrial litigation under the applicable statute. In 28 U.S.C. § 1407, Congress provided a mechanism for centralizing similar federal civil actions in one district for pretrial proceedings. As the Panel has recognized, “[t]ransfer under Section 1407 has the salutary effect of placing related actions before a single judge who can formulate a pretrial program that ensures that pretrial proceedings are conducted in a streamlined manner leading to the just and expeditious resolution of all actions.” *In re Cessna 208 Series Aircraft Prods. Liab. Litig.*, 560 F. Supp. 2d 1380, 1380-81 (J.P.M.L. 2008); *accord In re Ortho Evra Prods. Liab. Litig.*, 422 F. Supp. 2d 1379, 1381 (J.P.M.L. 2006). Centralizing similar actions “avoid[s] duplication of discovery, prevent[s] inconsistent or repetitive pretrial rulings, and conserve[s] the resources of the parties, their counsel and the judiciary.” *In re Ephedra Prods. Liab. Litig.*, 314 F. Supp. 2d 1373, 1375 (J.P.M.L. 2004); *accord In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d 1371, 1372 (J.P.M.L. 2007); *In re Paxil Prods. Liab. Litig.*, 296 F. Supp. 2d 1374, 1375 (J.P.M.L. 2003).

There are three essential requirements for transfer under Section 1407. The statute provides: “When civil actions involving *one or more common questions of fact* are pending in different districts, such actions may be transferred to any district for coordinated or consolidated

pretrial proceedings. Such transfers shall be made . . . upon [the Panel’s] determination that transfers for such proceedings *will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of such actions.*” 28 U.S.C. § 1407(a) (emphases added.) All three requirements are satisfied here.

A. The pending federal cases involve “one or more common questions of fact.”

Transfer is appropriate because all of the pending federal cases involve common questions of fact. Each case will require litigation concerning (1) the design, manufacturing, testing, regulatory approval, and marketing of GranuFlo and NaturaLyte; (2) the benefits and risks associated with those products; (3) Fresenius’ knowledge of certain risks; (4) the contents of the labels, warnings, and instructions provided by Fresenius; and (5) the contents of any warranties provided by Fresenius.

The Panel has found common questions of fact in other product-liability actions involving prescription drugs or medical devices. *See, e.g., In re Wright Med. Tech., Inc. Conserve Hip Implant Prods. Liab. Litig.*, 844 F. Supp. 2d 1371, 1372 (J.P.M.L. 2012); *In re DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F. Supp. 2d 1358, 1360 (J.P.M.L. 2011); *In re Fosamax (Alendronate Sodium) Prods. Liab. Litig. (No. II)*, 787 F. Supp. 2d 1355, 1356 (J.P.M.L. 2011); *In re Zimmer Durom Hip Cup Prods. Liab. Litig.*, 717 F. Supp. 2d 1376, 1378 (J.P.M.L. 2010).<sup>2</sup> For example, the Panel recently granted a motion for transfer

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<sup>2</sup> *See also In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d at 1372 (hernia patch); *In re Bextra & Celebrex Mktg., Sales Practices & Prods. Liab. Litig.*, 391 F. Supp. 2d 1377, 1379 (J.P.M.L. 2005) (prescription drugs); *In re Vioxx Prods. Liab. Litig.*, 360 F. Supp. 2d 1352, 1353-54 (J.P.M.L. 2005) (prescription drug); *In re Paxil Prods. Liab. Litig.*, 296 F. Supp. 2d at 1375 (prescription drug); *In re Cutter Labs., Inc. “Braunwald-Cutter” Aortic Heart Valve Prods. Liab. Litig.*, 465 F. Supp. 1295, 1297 (J.P.M.L. 1979) (artificial heart valve); *In re Upjohn Co. Antibiotic “Cleocin” Prods. Liab. Litig.*, 450 F. Supp. 1168, 1170 (J.P.M.L. 1978) (antibiotic).

of product-liability cases against the manufacturer of a device used in hip-replacement surgery, concluding that “[a]ll 45 actions share factual issues as to whether [the device] was defectively designed and/or manufactured, and whether [the manufacturer] failed to provide adequate warnings concerning the device.” *In re Zimmer Durom Hip Cup Prods. Liab. Litig.*, 717 F. Supp. 2d at 1378. The same kinds of factual questions are common to the pending cases here. Of course, individual factual questions will arise in each case—for example, questions relating to the information provided to the decedent’s physician, his or her reliance (or non-reliance) on such information, and the decedent’s unique medical condition. However, “almost all injury litigation involves questions of causation that are case- and plaintiff-specific,” and “[s]uch differences have not been an impediment to centralization in the past.” *In re Wright Med. Tech., Inc., Conserve Hip Implant Prods. Liab. Litig.*, 844 F. Supp. 2d at 1372.

The existence of common questions of fact is not surprising, because all of the pending cases advance similar legal theories—typically strict-liability, negligence, and breach of warranty—against one or more of the same Fresenius defendants.<sup>3</sup> The Panel has granted motions for transfer of cases (like these) involving common claims against common defendants. *See, e.g., In re Celexa & Lexapro Prods. Liab. Litig.*, 416 F. Supp. 2d 1361, 1362 (J.P.M.L. 2006) (“All actions before the Panel assert claims against one or both of the Forest defendants arising from ingestion of Celexa or Lexapro”); *In re Cutter Labs., Inc. “Braunwald-Cutter” Aortic Heart Valve Prods. Liab. Litig.*, 465 F. Supp. at 1296 (“Liability against Cutter in each of the fifteen actions is based, inter alia, on theories of negligence . . . ; breach of express and

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<sup>3</sup> Some cases name German-based Fresenius entities as defendants, but to date none of the German entities has been served with a complaint. If and when those German entities are served, they will appear through separate counsel and assert their rights as appropriate.

implied warranties; and/or strict liability in tort”); *In re Upjohn Co. Antibiotic “Cleocin” Prods. Liab. Litig.*, 450 F. Supp. at 1169-70 (“Liability against Upjohn in each of the actions is based on negligence in . . . failing to warn of the dangers inherent in taking Cleocin, strict liability, and/or breach of warranties”). Although some of the pending cases assert claims for fraud or consumer-protection violations that others do not, “Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to centralization.” *In re Zimmer Durom Hip Cup Prods. Liab. Litig.*, 717 F. Supp. 2d at 1378; accord *In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d at 1373. Moreover, the statute does not require common *legal* claims, but only common questions of *fact*; thus, “the applicability of different legal principles will not prevent the transfer of an action under section 1407 if the requisite common questions of fact exist.” *In re Multidistrict Civil Antitrust Actions Involving Antibiotic Drugs*, 309 F. Supp. 155, 156 (J.P.M.L. 1970).

The pending cases, which assert common claims against common defendants, involve several common questions of fact that should be the subject of centralized discovery and pretrial litigation. Section 1407(a)’s first requirement for transfer is plainly satisfied here.

B. Transfer would serve “the convenience of the parties and witnesses.”

Section 1407(a)’s second requirement—that transfer would serve “the convenience of the parties and witnesses”—also is satisfied. As explained above, these cases involve common questions of fact relating to Fresenius’ design and manufacture of its products, as well as its knowledge and communication of risks associated with those products. Given the nature of those questions, a significant portion of discovery in each case will necessarily focus on Fresenius documents and witnesses. Most (if not all) of those documents and witnesses will be

located in Massachusetts, where Fresenius has its principal place of business. *See In re Lead Contaminated Fruit Juice Prods. Mktg. & Sales Practices Litig.*, 777 F. Supp. 2d 1353, 1355 (J.P.M.L. 2011) (recognizing that corporate documents and witnesses likely would be found in the district in which the manufacturer's headquarters was located); *In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d at 1373 (same). Transferring cases to a single district for centralized discovery relating to the common questions of fact would be more convenient for the parties and witnesses, especially Fresenius witnesses. There is simply no need to conduct multiple, repetitive depositions of corporate witnesses or to make multiple productions of corporate documents.<sup>4</sup> As the Panel has recognized, transfer under Section 1407 is appropriate to "avoid duplication of discovery" and "conserve the resources of the parties, their counsel and the judiciary." *In re Ephedra Prods. Liab. Litig.*, 314 F. Supp. 2d at 1375; *accord In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d at 1372.

C. Transfer would "promote the just and efficient conduct" of the pending cases.

Finally, transfer under Section 1407(a) is appropriate because it would "promote the just and efficient conduct" of the pending cases. All of the pending cases are in the early stages of litigation. Fresenius has not yet filed a responsive pleading in any of the federal cases, and discovery has not commenced in any of them. "Since all the actions in this docket are at an early stage, transfer to another district should not be disruptive." *In re Darvocet, Darvon & Propoxyphene Prods. Liab. Litig.*, 780 F. Supp. 2d 1379, 1282 (J.P.M.L. 2011); *accord In re BP p.l.c. Secs. Litig.*, 734 F. Supp. 2d 1376, 1379 (J.P.M.L. 2010). Having a single court manage

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<sup>4</sup> Centralizing the federal cases will minimize the potential for repetitive, duplicative discovery. To date, plaintiffs have filed another 15 cases in state courts in Colorado, Illinois, Louisiana, Massachusetts, and New York. Discovery in those cases will proceed independently of any federal MDL proceeding.



discovery and resolve pretrial disputes would promote efficient resolution of these cases by avoiding inconsistent rulings on discovery and merits-related matters.

Because all three statutory requirements for transfer are satisfied, the Panel should grant the motion for transfer of all pending cases to a single district.

## **II. The Cases Should Be Transferred to the District of Massachusetts.**

Fresenius agrees with the Movants (and other plaintiffs) that the most appropriate venue for an MDL proceeding is the District of Massachusetts, for several reasons.

*First*, the Panel should consider the fact that the Movants (residents of Missouri and New Hampshire, represented by counsel in Massachusetts and New York) and Fresenius (headquartered in Massachusetts) agree that these cases should be transferred to the District of Massachusetts. And indeed, since the Movants filed the motion for transfer, a separate group of plaintiffs (residents of Georgia and Ohio, represented by counsel in Maryland) likewise have agreed that the cases should be centralized in the District of Massachusetts. (Doc. 9-1.) Counsel for those plaintiffs recently filed a case in the District of Massachusetts (*Moore*), on behalf of a Texas plaintiff. The agreement of adverse parties is an important consideration in selecting the appropriate district for an MDL proceeding. *See, e.g., In re LivingSocial Mktg. & Sales Practices Litig.*, 807 F. Supp. 2d 1379, 1380 (J.P.M.L. 2011); *In re Cutter Labs., Inc. “Braunwald-Cutter” Aortic Heart Valve Prods. Liab. Litig.*, 465 F. Supp. at 1298.

*Second*, the District of Massachusetts is the most convenient district for the parties and witnesses. Because GranuFlo and NaturaLyte are used in dialysis clinics throughout the country, and there is no reason to believe the alleged injuries would occur in one region more frequently than any other region, there is no geographic focal point for the plaintiffs (and potential

plaintiffs) and their witnesses. But the District of Massachusetts is the clear focal point for Fresenius and its witnesses. Fresenius is headquartered in Waltham, Massachusetts (10 miles northwest of Boston), most of the potential corporate witnesses live and work in or near Waltham, and most of the relevant corporate documents likely will be found there. In short, the discovery relevant to the common questions of fact—which justify transfer in the first place—will be focused on witnesses and documents located in Massachusetts.

The Panel recently granted a motion to transfer cases to the District of Massachusetts where that district was “the most conveniently located to the headquarters of the various defendants and, therefore, the location of relevant documents and witnesses.” *In re Lead Contaminated Fruit Juice Prods. Mktg. & Sales Practices Litig.*, 777 F. Supp. 2d 1353, 1355 (J.P.M.L. 2011); *see also In re Kugel Mesh Hernia Patch Prods. Liab. Litig.*, 493 F. Supp. 2d at 1373 (transferring cases to the District of Rhode Island because “[the manufacturer’s] headquarters are located within this district and thus witnesses and relevant documents will likely be found there”). Moreover, both the federal courthouse in Boston and Fresenius’ corporate headquarters in Waltham are easily accessible by counsel. *See In re Trasylol Prods. Liab. Litig.*, 545 F. Supp. 2d 1357, 1358 (J.P.M.L. 2008) (selecting venue, in part, because it “offer[ed] an accessible metropolitan location”); *In re Long-Distance Tele. Serv. Fed. Excise Tax Refund Litig.*, 469 F. Supp. 2d 1348, 1350 (J.P.M.L. 2006) (explaining that forum was appropriate because the “vicinity provides an easily accessible location” for the parties, witnesses, and discovery).

*Third*, the District of Massachusetts already is home to six of the cases currently pending. One of those cases (*Jones*) is a putative nationwide class action.<sup>5</sup> According to the Movants, “many additional actions” likely will be filed in the District of Massachusetts. (Doc. 1 at 5.) In addition, as of this date, there are eight GranuFlo/NaturaLyte cases pending in Massachusetts state courts.<sup>6</sup> “Centralization [of the federal cases] in [the District of Massachusetts] could facilitate coordination between the federal and state courts.” *In re Fosamax (Alendronate Sodium) Prods. Liab. Litig. (No. II)*, 787 F. Supp. 2d at 1357; accord *In re Avaulta Pelvic Support Sys. Prods. Liab. Litig.*, 746 F. Supp. 2d 1362, 1364 (J.P.M.L. 2010); *In re General Motors Corp. Sec. & Derivative Litig.*, 429 F. Supp. 2d 1368, 1370 (J.P.M.L. 2006). Such coordination would help alleviate the burdens of repetitive, duplicative discovery that Fresenius will experience as it litigates federal and state actions concurrently.

*Finally*, the District of Massachusetts has both the capacity and the expertise to handle these cases. The Panel considers the “relative docket conditions” of potential transferee districts when selecting a venue for MDL proceedings, favoring districts with lighter civil caseloads. *In re Webvention LLC ('294) Patent Litig.*, 831 F. Supp. 2d 1366, 1367 (J.P.M.L. 2011); see also *In re Wright Med. Tech., Inc., Conserve Hip Implant Prods. Liab. Litig.*, 844 F. Supp. 2d at 1373 (noting that transferee district “enjoy[ed] favorable docket conditions”); *In re DePuy*

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<sup>5</sup> Class treatment and Section 1407 transfer, of course, are not the same, and the Panel has routinely created MDLs that included putative class actions. See, e.g., *In re Blue Cross Blue Shield Antitrust Litig.*, 2012 WL 6554004, at \*2 & n.3 (J.P.M.L. Dec. 12, 2012).

<sup>6</sup> The other state cases are pending in Colorado (1), Illinois (1), Louisiana (3), and New York (2).

*Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F. Supp. 2d at 1360 (noting that transferee district had “caseload conditions conducive to handling [the] litigation”).

As of December 31, 2011, there were 3,593 total cases pending in the District of Massachusetts, down from 3,688 cases the previous year. *See* Administrative Office of the United States Courts, *U.S. District Court – Judicial Caseload Profile: Massachusetts*, available at [www.uscourts.gov/Statistics/FederalCourtManagementStatistics/DistrictCourtsDec2011.aspx](http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics/DistrictCourtsDec2011.aspx) (visited Jan. 2, 2013) (copy attached as Exhibit A). At the same time, the civil caseload per judgeship was lower in the District of Massachusetts than in most districts around the country: With 228 civil filings per judgeship, the District of Massachusetts ranked 76th among judicial districts nationwide. *See id.*<sup>7</sup> Although there are eight MDL proceedings currently in the District of Massachusetts, together those proceedings involve 84 pending actions—an average of only 10.5 actions per MDL proceeding. *See* U.S.J.P.M.L., *MDL Statistics Report – Distribution of Pending MDL Dockets* (Nov. 14, 2012). Those data suggest that there is capacity in the District of Massachusetts to handle an MDL proceeding for these cases. *See In re Nexium (Esomeprazole) Antitrust Litig.*, 2012 WL 6062555, at \*1 (Dec. 6, 2012) (recently transferring

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<sup>7</sup> Indeed, the number of civil filings per judgeship in the District of Massachusetts (228) is considerably lower than in any of the other districts in which similar cases currently are pending: Middle District of Alabama (385), Northern District of Alabama (553), Northern District of California (491), Southern District of Florida (469), Middle District of Georgia (335), Northern District of Georgia (507), Southern District of Georgia (385), Middle District of Louisiana (304), Southern District of Mississippi (341), District of New Jersey (476), Eastern District of New York (434), Southern District of Ohio (326), and Middle District of Pennsylvania (422). *See* Exhibit A. The relative docket conditions in the District of Massachusetts are more favorable for an MDL proceeding than the conditions in the Northern District of Alabama, Southern District of Mississippi, or Eastern District of New York—the only other districts in which three or more cases are pending.

cases to the District of Massachusetts because it was “a relatively underutilized district in which three of the eleven related actions [were] pending”).

The district judges in Massachusetts also have relevant experience handling MDL proceedings—an important consideration in selecting the appropriate forum. *See, e.g., In re Celexa & Lexapro Prods. Liab. Litig.*, 416 F. Supp. 2d at 1363 (assigning cases to “a jurist experienced in complex multidistrict litigation”). Six active judges in the District of Massachusetts—Chief Judge Saris and Judges Zobel, Young, Gorton, Stearns, and Saylor—are currently handling MDL proceedings. *See* U.S.J.P.M.L., *MDL Statistics Report – Distribution of Pending MDL Dockets* (Nov. 14, 2012); *In re Nexium (Esomeprazole) Antitrust Litig.*, 2012 WL 6062555, at \*1 (assigning most recently transferred MDL to Judge Young). Two other active judges in the District—Judges Tauro and Woodlock—also have handled MDL proceedings in recent years. *See* U.S.J.P.M.L., *Multidistrict Litigation Terminated Through September 30, 2012*, at 2-3. Thus, the judges in the District of Massachusetts have the experience and ability necessary to handle these cases efficiently.

In recently assigning an MDL to the District of Massachusetts, the Panel emphasized that it was “selecting a jurist with multidistrict litigation experience, but who is not presently presiding over such a litigation.” *In re Nexium (Esomeprazole) Antitrust Litig.*, 2012 WL 6062555, at \*1. Two active Massachusetts district judges fit that bill. Judge Tauro has handled six MDLs during his 40-plus years on the bench; the most recent of those, *In re Volkswagen and Audi Warranty Extension Litigation*, MDL No. 1790, terminated in 2011. And Judge Woodlock has handled two MDL proceedings—*In re Carbon Black Antitrust Litigation*, MDL No. 1543,

which terminated in 2007, and *In re M3 Power Razor System Marketing & Sales Practices Litigation*, MDL No. 1704, which terminated in 2011—but does not currently have one.

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On balance, the District of Massachusetts is the most appropriate district for an MDL proceeding. It is already the home to a significant number of pending cases; it is convenient to the parties and witnesses, especially the witnesses relevant to the common questions of fact; the size of its civil docket is not so large as to impede efficient resolution of these cases; and its judges have appropriate experience handling multidistrict litigation. For those reasons, Fresenius agrees with the Movants (and other plaintiffs) that the pending federal cases should be transferred to the District of Massachusetts.

### CONCLUSION

The motion for transfer should be granted. The pending federal cases should be transferred to the United States District Court for the District of Massachusetts.

January 3, 2013

Respectfully submitted,

s/ Kevin C. Newsom

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# EXHIBIT A

## U.S. District Court -- Judicial Caseload Profile

## ALL DISTRICT COURTS

ALL DISTRICT COURTS			12-Month Periods Ending					
			September 30				December 31	
			2007	2008	2009	2010	2010	2011
Overall Caseload Statistics	Filings*		335,655	349,969	363,774	372,673	383,459	379,000
	Terminations		317,277	317,056	349,727	399,121	403,921	396,865
	Pending		324,673	358,303	369,366	348,437	350,014	333,781
	Percent Change in Total Filings Current Year Over Earlier Year						-1.2	Over Last Year
			12.9	8.3	4.2	1.7	Over Earlier Years	
Number of Judgeships			678	678	678	678	677	677
Vacant Judgeship Months**			424.7	397.9	602.7	963.8	1,015.5	889.0
Actions per Judgeship	Filings	Total	495	516	537	549	566	560
		Civil	380	394	408	417	433	428
		Criminal Felony	85	91	97	98	99	98
		Supervised Release Hearings	30	31	32	34	34	34
	Pending Cases		479	528	545	514	517	493
	Weighted Filings**		477	472	480	490	499	508
	Terminations		468	468	516	589	597	586
	Trials Completed		20	20	20	20	20	20
Median Time (Months)	From Filing to Disposition	Criminal Felony	7.6	7.3	7.1	6.9	6.9	7.1
		Civil**	8.6	8.1	8.9	7.6	7.8	7.0
	From Filing to Trial (Civil Only)**		24.6	24.8	25.3	24.3	24.2	25.0
Other	Number (and %) of Civil Cases Over 3 Years Old		17,446	21,820	35,824	45,010	45,411	37,993
			6.6	7.3	11.7	15.8	15.9	14.0
	Average Number of Felony Defendants Filed per Case		1.4	1.3	1.3	1.3	1.3	1.4
	Jurors	Average Present for Jury Selection	49.3	48.8	52.6	49.2	48.8	48.5
		Percent Not Selected or Challenged	37.3	37.4	39.9	38.7	39.0	36.8

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	289,969	15,745	59,866	53,491	2,327	11,288	18,350	31,226	18,276	10,070	37,270	461	31,599
Criminal*	66,006	4,136	11,044	26,353	7,240	6,990	1,896	3,280	675	1,274	726	886	1,506

[Clicks here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

[Clicks here for an explanation of Selected Terms.](#)



## U.S. District Court -- Judicial Caseload Profile

ALABAMA MIDDLE			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		1,471	1,367	1,411	1,356	1,365	1,362	U.S.	Circuit
	Terminations		1,551	1,445	1,423	1,336	1,271	1,318		
	Pending		1,295	1,214	1,199	1,216	1,275	1,320		
	Percent Change in Total Filings Current Year Over Earlier Year						-0.2	Over Last Year		
			-7.4	-0.4	-3.5	0.4	Over Earlier Years		78	6
Number of Judgeships			3	3	3	3	3	3		
Vacant Judgeship Months**			0.0	0.0	0.0	0.0	0.0	0.0		
Cases per Judgeship	Filings	Total	490	455	471	452	455	454	43	7
		Civil	396	367	393	377	381	385	30	6
		Criminal Felony	76	66	62	53	52	51	63	7
		Supervised Release Hearings	18	22	16	22	22	18	64	6
	Pending Cases		432	405	400	405	425	440	38	4
	Weighted Filings**		498	454	464	453	470	453	45	7
	Terminations		517	482	474	445	424	439	46	6
	Trials Completed		31	21	29	26	28	24	29	3
Median Time (Months)	From Filing to Disposition	Criminal Felony	9.1	9.3	10.4	8.9	8.9	9.2	51	8
		Civil**	10.0	8.7	9.1	9.0	9.5	9.9	63	8
	From Filing to Trial (Civil Only)**		16.0	18.0	15.0	16.9	17.2	18.5	12	4
Other	Number (and %) of Civil Cases Over 3 Years Old		43	33	33	38	44	40	246	
			4.1	3.3	3.3	3.7	4.1	3.5		
	Average Number of Felony Defendants Filed per Case		1.2	1.4	1.5	1.3	1.4	1.4		
	Jurors	Average Present for Jury Selection	28.9	34.0	39.0	38.1	41.9	42.3		
		Percent Not Selected or Challenged	29.3	29.3	30.7	33.2	31.6	31.7		

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1,156	135	29	429	9	21	38	111	70	3	235	1	75
Criminal*	151		18	21	25	35	4	13	8	8	2	8	9

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

ALABAMA NORTHERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		5,408	2,999	3,168	3,899	4,253	4,915	U.S.	Circuit
	Terminations		4,062	3,172	3,561	4,119	4,153	3,098		
	Pending		4,091	3,940	3,560	3,371	3,814	5,630		
	Percent Change in Total Filings Current Year Over Earlier Year						15.6	Over Last Year		
			-9.1	63.9	55.1	26.1	Over Earlier Years		79	7
Number of Judgeships			8	8	8	8	8	8		
Vacant Judgeship Months**			0.0	0.0	7.9	1.7	0.0	0.0		
Actions per Judgeship	Filings	Total	675	375	397	487	532	615	14	2
		Civil	605	308	336	426	467	553	4	1
		Criminal Felony	57	52	47	45	49	48	72	8
		Supervised Release Hearings	13	15	14	16	16	14	74	9
	Pending Cases		511	493	445	421	477	704	9	2
	Weighted Filings**		707	397	404	444	489	547	26	5
	Terminations		508	397	445	515	519	387	62	9
	Trials Completed		24	28	26	23	22	24	29	3
Median Time (Months)	From Filing to Disposition	Criminal Felony	6.7	7.0	6.9	7.0	7.1	6.4	17	3
		Civil**	5.7	8.8	11.7	13.9	14.1	8.1	28	6
	From Filing to Trial (Civil Only)**		25.0	19.5	30.0	22.5	21.3	18.3	10	3
Other	Number (and %) of Civil Cases Over 3 Years Old		49	83	98	114	116	167	19	4
			1.3	2.3	3.1	3.8	3.4	3.2		
	Average Number of Felony Defendants Filed per Case		1.3	1.3	1.3	1.1	1.2	1.2		
	Jurors	Average Present for Jury Selection	40.1	36.7	41.3	32.1	31.4	39.0		
		Percent Not Selected or Challenged	38.2	31.8	43.8	31.5	28.5	34.4		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	4,422	475	1,675	650	20	34	195	305	137	25	701	1	204
Criminal*	376	1	37	41	126	76	16	34	9	6	3	10	17

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

CALIFORNIA NORTHERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		7,970	7,295	7,576	7,424	7,389	8,022	U.S.	Circuit
	Terminations		6,777	7,402	7,403	8,640	7,984	8,120		
	Pending		9,005	8,882	8,579	7,327	7,310	7,042		
	Percent Change in Total Filings Current Year Over Earlier Year						8.6	Over Last Year	20	6
0.7			10.0	5.9	8.1	Over Earlier Years		60	10	
Number of Judgeships			14	14	14	14	14	14		
Vacant Judgeship Months**			0.0	5.9	22.0	33.9	29.1	17.1		
Actions per Judgeship	Filings	Total	569	521	541	530	528	573	19	6
		Civil	505	441	433	435	441	491	12	3
		Criminal Felony	33	42	64	52	49	51	63	11
		Supervised Release Hearings	31	38	44	43	38	31	33	10
	Pending Cases		643	634	613	523	522	503	25	4
	Weighted Filings**		624	592	607	593	598	646	12	5
	Terminations		484	529	529	617	570	580	17	5
	Trials Completed		8	6	6	12	13	19	55	7
Median Time (Months)	From Filing to Disposition	Criminal Felony	12.4	11.2	6.9	8.7	9.3	9.0	48	9
		Civil**	6.7	7.7	9.4	9.8	8.4	7.6	21	4
	From Filing to Trial (Civil Only)**		24.9	30.0	24.5	21.5	20.3	35.4	69	7
Other	Number (and %) of Civil Cases Over 3 Years Old		393	488	1,220	837	726	511		
			4.7	6.0	15.7	12.8	11.1	8.2	68	10
	Average Number of Felony Defendants Filed per Case		1.2	1.3	1.2	1.2	1.3	1.3		
	Jurors	Average Present for Jury Selection	53.8	64.1	77.5	62.1	60.9	69.9		
		Percent Not Selected or Challenged	41.9	42.1	48.5	39.4	38.9	40.9		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6,876	121	194	1,474	33	500	829	826	291	528	859	71	1,150
Criminal*	715	11	129	245	101	118	16	24	12	5	15	25	14

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Items."

## U.S. District Court -- Judicial Caseload Profile

FLORIDA SOUTHERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		9,011	9,926	10,639	10,930	10,531	10,305	U.S.	Circuit
	Terminations		9,362	9,506	10,775	10,856	10,214	10,559		
	Pending		5,563	6,035	5,703	5,803	5,916	5,775		
	Percent Change in Total Filings Current Year Over Earlier Year						-2.2	Over Last Year	63	9
			14.4	3.8	-3.1	-5.7	Over Earlier Years		31	3
Number of Judgeships			18	18	18	18	18	18		
Vacant Judgeship Months**			0.0	0.0	7.1	13.0	16.0	28.2		
Actions per Judgeship	Filings	Total	500	551	591	607	586	572	21	4
		Civil	393	434	480	500	481	469	17	5
		Criminal Felony	88	97	89	86	84	82	29	3
		Supervised Release Hearings	19	20	22	21	21	21	58	4
	Pending Cases		309	335	317	322	329	321	69	8
	Weighted Filings**		549	593	595	668	665	639	13	2
	Terminations		520	528	599	603	567	587	15	2
	Trials Completed		22	27	29	26	24	21	46	6
Median Time (Months)	From Filing to Disposition	Criminal Felony	5.6	5.5	5.5	5.3	5.4	5.3	9	1
		Civil**	5.0	4.6	4.3	3.9	4.6	5.0	2	1
	From Filing to Trial (Civil Only)**		17.9	15.6	15.7	16.9	15.8	17.2	8	1
Other	Number (and %) of Civil Cases Over 3 Years Old		618	474	73	63	65	80	6	1
			13.7	10.0	1.6	1.3	1.3	1.7		
	Average Number of Felony Defendants Filed per Case		1.6	1.5	1.5	1.6	1.6	1.7		
	Jurors	Average Present for Jury Selection	46.6	46.3	47.7	43.9	47.3	42.5		
		Percent Not Selected or Challenged	26.2	22.4	23.1	21.2	22.8	21.1		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	8,448	268	422	1,109	39	83	1,446	1,460	946	360	1,128	10	1,177
Criminal*	1,456	25	276	241	132	490	44	60	32	29	31	55	41

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

GEORGIA MIDDLE			12-Month Periods Ending						Numerical Standing Within		
			September 30				December 31				
			2007	2008	2009	2010	2010	2011			
Overall Caseload Statistics	Filings*		1,547	1,405	1,466	1,367	1,442	1,697	U.S.	Circuit	
	Terminations		1,594	1,541	1,524	1,492	1,584	1,714			
	Pending		1,402	1,300	1,252	1,165	1,209	1,233			
	Percent Change in Total Filings Current Year Over Earlier Year						17.7	Over Last Year	2	1	
			9.7	20.8	15.8	24.1	Over Earlier Years		42	5	
Number of Judgeships			4	4	4	4	4	4			
Vacant Judgeship Months**			0.0	0.0	9.0	8.6	5.6	0.0			
Actions per Judgeship	Filings	Total	388	352	367	342	361	425	53	8	
		Civil	303	283	304	270	289	335	41	8	
		Criminal Felony	63	54	46	56	55	70	40	5	
		Supervised Release Hearings	22	15	17	16	17	20	60	5	
	Pending Cases		351	325	313	291	302	308	71	9	
	Weighted Filings**		382	354	364	346	354	436	48	8	
	Terminations		399	385	381	373	396	429	50	7	
	Trials Completed		10	19	15	16	16	13	74	9	
Median Time (Months)	From Filing to Disposition	Criminal Felony	10.1	10.1	11.0	9.9	10.2	9.0	48	7	
		Civil**	11.3	11.2	10.8	10.6	11.2	9.2	57	7	
	From Filing to Trial (Civil Only)**		-	25.0	26.5	25.9	23.7	20.3	21	5	
Other	Number (and %) of Civil Cases Over 3 Years Old		40	47	40	56	62	34	22		5
			3.6	4.5	3.9	6.1	6.4	3.4			
	Average Number of Felony Defendants Filed per Case		1.4	1.4	1.4	1.4	1.3	1.5			
	Jurors	Average Present for Jury Selection	17.2	40.7	38.6	57.2	49.7	42.3			
		Percent Not Selected or Challenged	38.7	37.7	32.5	54.4	51.4	43.4			

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1,338	93	51	519	30	40	45	140	115	15	204	1	85
Criminal*	278	7	78	47	36	27	11	18	3	6	9	6	30

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."



## U.S. District Court -- Judicial Caseload Profile

## GEORGIA NORTHERN

GEORGIA NORTHERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		4,487	5,274	5,119	5,648	5,763	6,262	U.S.	Circuit
	Terminations		4,560	5,077	4,891	5,318	5,544	6,033		
	Pending		3,505	3,726	3,936	4,363	4,474	4,588		
	Percent Change in Total Filings Current Year Over Earlier Year						8.7	Over Last Year	19	4
			39.6	18.7	22.3	10.9	Over Earlier Years		6	1
Number of Judgeships			11	11	11	11	11	11		
Vacant Judgeship Months**			0.0	0.0	25.5	44.3	47.3	27.8		
Actions per Judgeship	Filings	Total	408	480	465	514	524	569	22	5
		Civil	355	420	397	451	464	507	9	3
		Criminal Felony	38	44	49	48	46	46	75	9
		Supervised Release Hearings	15	16	19	15	14	16	68	8
	Pending Cases		319	339	358	397	407	417	46	5
	Weighted Filings**		461	509	497	550	560	574	23	4
	Terminations		415	462	445	483	504	548	21	3
	Trials Completed		23	24	27	21	20	21	46	6
Median Time (Months)	From Filing to Disposition	Criminal Felony	11.5	13.3	11.5	11.1	10.3	8.6	43	6
		Civil**	7.7	6.7	6.7	6.7	6.7	6.0	7	2
	From Filing to Trial (Civil Only)**		27.9	30.5	29.4	26.1	25.3	31.2	59	8
Other	Number (and %) of Civil Cases Over 3 Years Old		70	97	63	106	114	93	92	
			2.5	3.2	1.9	2.9	3.0	2.4		
	Average Number of Felony Defendants Filed per Case		1.8	1.7	1.5	1.5	1.5	1.7	92	
	Jurors	Average Present for Jury Selection	34.1	26.6	39.9	40.7	42.5	34.2		
		Percent Not Selected or Challenged	38.6	35.2	31.8	33.9	34.8	28.1		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	5,578	236	305	1,038	81	883	284	672	396	192	812	4	675
Criminal*	503	9	82	104	95	111	15	35	4	17	9	8	14

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

GEORGIA SOUTHERN			12-Month Periods Ending						Numerical Standing Within		
			September 30				December 31				
			2007	2008	2009	2010	2010	2011			
Overall Caseload Statistics	Filings*		1,271	1,356	1,334	1,461	1,449	1,480	U.S.	Circuit	
	Terminations		1,516	1,262	1,330	1,441	1,425	1,509			
	Pending		923	1,020	1,047	1,047	1,089	1,069			
	Percent Change in Total Filings Current Year Over Earlier Year						2.1	Over Last Year	42	6	
			16.4	9.1	10.9	1.3	Over Earlier Years		27	2	
Number of Judgeships			3	3	3	3	3	3			
Vacant Judgeship Months**			16.0	6.3	0.0	0.0	0.0	0.0			
Actions per Judgeship	Filings	Total	424	452	444	487	484	494	33	6	
		Civil	307	319	296	357	346	385	30	6	
		Criminal Felony	90	102	117	95	101	74	35	4	
		Supervised Release Hearings	27	31	31	35	37	35	29	2	
	Pending Cases		308	340	349	349	363	356	59	6	
	Weighted Filings**		433	465	492	531	517	491	39	6	
	Terminations		505	421	443	480	475	503	31	5	
	Trials Completed		24	19	15	23	23	20	54	8	
Median Time (Months)	From Filing to Disposition	Criminal Felony	9.6	7.7	8.8	9.3	9.6	9.4	54	9	
		Civil**	10.1	10.3	8.5	7.9	8.5	7.2	17	4	
	From Filing to Trial (Civil Only)**		31.0	28.0	26.0	22.9	-	32.7	64	9	
Other	Number (and %) of Civil Cases Over 3 Years Old		10	15	9	6	12	20	11		3
			1.6	2.1	1.4	0.8	1.6	2.5			
	Average Number of Felony Defendants Filed per Case		1.4	1.7	1.7	1.8	1.7	1.5			
	Jurors	Average Present for Jury Selection	30.3	45.3	45.1	42.2	42.5	42.0			
		Percent Not Selected or Challenged	30.4	28.8	47.5	42.4	33.7	41.7			

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1,155	51	26	555	6	34	24	104	65	9	161	-	120
Criminal*	220	13	41	3	92	28	11	12	7	7	2	-	4

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

LOUISIANA MIDDLE			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		1,236	1,098	1,255	1,164	1,088	1,090	U.S.	Circuit
	Terminations		7,536	2,634	1,208	1,132	1,148	1,131		
	Pending		2,894	1,151	1,178	1,201	1,213	1,167		
	Percent Change in Total Filings Current Year Over Earlier Year						0.2	Over Last Year	49	4
			-11.8	-0.7	-13.2	-6.4	Over Earlier Years		84	7
Number of Judgeships			3	3	3	3	3	3		
Vacant Judgeship Months**			8.5	12.0	12.0	8.4	5.4	5.4		
Actions per Judgeship	Filings	Total	412	366	418	388	363	363	69	7
		Civil	333	306	360	322	300	304	51	6
		Criminal Felony	74	53	48	55	52	49	68	5
		Supervised Release Hearings	5	7	10	11	11	10	83	6
	Pending Cases		965	384	393	400	404	389	54	6
	Weighted Filings**		420	365	393	389	364	342	75	7
	Terminations		2,512	878	403	377	383	377	67	8
	Trials Completed		25	18	19	26	30	36	6	2
Median Time (Months)	From Filing to Disposition	Criminal Felony	9.4	14.0	13.5	12.9	12.5	11.9	74	8
		Civil**	127.6	166.4	5.3	8.1	9.2	11.1	77	6
	From Filing to Trial (Civil Only)**		38.0	-	-	48.2	48.3	31.8	62	9
Other	Number (and %) of Civil Cases Over 3 Years Old		1,561	77	72	99	91	79		
			65.7	9.0	7.9	10.4	9.4	8.4	72	8
	Average Number of Felony Defendants Filed per Case		1.1	1.3	1.2	1.2	1.2	1.2		
	Jurors	Average Present for Jury Selection	35.2	43.6	30.5	27.5	26.9	51.8		
		Percent Not Selected or Challenged	25.2	33.6	19.4	19.3	15.6	35.8		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	912	30	43	312	4	10	25	125	153	9	123	-	78
Criminal*	145	3	39	20	43	14	2	6	7	2	2	-	7

For a detailed explanation of the profile fields and nature of suit and offense classification,

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

For an explanation of selected terms,



## U.S. District Court -- Judicial Caseload Profile

MASSACHUSETTS			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		3,712	3,507	3,222	3,521	3,507	3,593	U.S.	Circuit
	Terminations		3,880	3,595	3,437	3,253	3,230	3,697		
	Pending		3,968	3,549	3,300	3,576	3,688	3,593		
	Percent Change in Total Filings Current Year Over Earlier Year						2.5	Over Last Year	40	1
			-3.2	2.5	11.5	2.0	Over Earlier Years		73	5
Number of Judgeships			13	13	13	13	13	13		
Vacant Judgeship Months**			0.0	0.0	6.6	12.0	11.5	11.8		
Actions per Judgeship	Filings	Total	286	270	248	271	270	276	84	2
		Civil	241	223	207	224	222	228	76	2
		Criminal Felony	29	28	24	29	30	30	86	5
		Supervised Release Hearings	16	19	17	18	18	18	64	2
	Pending Cases		305	273	254	275	284	276	77	3
	Weighted Filings**		313	299	272	301	302	322	78	2
	Terminations		298	277	264	250	248	284	81	2
	Trials Completed		18	20	17	15	16	11	84	5
Median Time (Months)	From Filing to Disposition	Criminal Felony	19.3	17.0	16.1	16.6	17.0	15.8	91	5
		Civil**	8.4	8.6	10.3	8.6	8.7	8.7	45	3
	From Filing to Trial (Civil Only)**		33.5	30.7	32.0	31.2	31.1	32.3	63	4
Other	Number (and %) of Civil Cases Over 3 Years Old		179	197	151	166	187	184	514	
			5.6	6.6	5.4	5.5	6.0	6.0		
	Average Number of Felony Defendants Filed per Case		1.4	1.4	1.5	1.3	1.4	1.4		
	Jurors	Average Present for Jury Selection	46.1	53.1	43.3	49.9	49.0	51.1		
		Percent Not Selected or Challenged	27.4	32.7	29.5	31.1	30.1	28.1		

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2,964	202	59	340	23	131	276	494	280	204	452	12	491
Criminal*	389		91	47	62	91	14	31	6	14	6	6	21

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

MISSISSIPPI SOUTHERN			12-Month Periods Ending						Numerical Standing Within		
			September 30				December 31				
			2007	2008	2009	2010	2010	2011			
Overall Caseload Statistics	Filings*		3,260	3,529	2,886	2,641	2,682	2,413	U.S.	Circuit	
	Terminations		3,432	3,215	3,660	2,922	2,852	2,470			
	Pending		2,909	3,345	2,507	2,216	2,297	2,229			
	Percent Change in Total Filings Current Year Over Earlier Year						-10.0	Over Last Year	86	7	
-26.0			-31.6	-16.4	-8.6	Over Earlier Years		88	8		
Number of Judgeships			6	6	6	6	6	6			
Vacant Judgeship Months**			18.7	12.0	12.0	12.0	11.5	0.0			
Actions per Judgeship	Filings	Total	543	588	481	441	448	403	58	5	
		Civil	450	499	409	367	375	341	39	4	
		Criminal Felony	67	66	51	45	42	38	82	7	
		Supervised Release Hearings	26	23	21	29	31	24	51	4	
	Pending Cases		485	558	418	369	383	372	56	8	
	Weighted Filings**		562	547	495	410	412	404	60	5	
	Terminations		572	536	610	487	475	412	54	6	
	Trials Completed		26	28	24	23	25	23	32	6	
Median Time (Months)	From Filing to Disposition	Criminal Felony	6.9	6.7	6.9	7.6	7.6	7.8	34	4	
		Civil**	10.8	10.6	5.8	8.1	9.1	9.0	54	4	
	From Filing to Trial (Civil Only)**		23.4	24.0	24.0	26.4	22.4	20.7	24	5	
Other	Number (and %) of Civil Cases Over 3 Years Old		64	75	107	73	93	91	38		4
			2.5	2.5	4.7	3.7	4.5	4.4			
	Average Number of Felony Defendants Filed per Case		1.2	1.3	1.4	1.3	1.2	1.4			
	Jurors	Average Present for Jury Selection	38.1	38.9	37.5	43.7	40.0	29.7			
		Percent Not Selected or Challenged	42.7	44.1	32.4	44.0	37.6	27.7			

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2,043	40	251	510	16	52	70	357	318	10	321	8	90
Criminal*	227	2	45	18	35	58	9	12	4	25	4	4	11

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

NEW JERSEY			12-Month Periods Ending						Numerical Standing Within			
			September 30				December 31					
			2007	2008	2009	2010	2010	2011				
Overall Caseload Statistics	Filings*		7,699	7,710	8,003	7,907	8,138	9,056	U.S.	Circuit		
	Terminations		7,752	7,654	8,334	8,188	8,267	8,749				
	Pending		6,892	7,101	6,866	6,712	6,843	7,318				
	Percent Change in Total Filings Current Year Over Earlier Year						11.3	Over Last Year			12	2
			17.6	17.5	13.2	14.5	Over Earlier Years				24	3
Number of Judgeships			17	17	17	17	17	17				
Vacant Judgeship Months**			0.0	0.0	0.0	11.7	17.7	14.8				
Actions per Judgeship	Filings	Total	454	454	471	465	479	533	29	2		
		Civil	392	391	412	414	427	476	16	2		
		Criminal Felony	51	52	48	39	40	46	75	2		
		Supervised Release Hearings	11	11	11	12	12	11	79	4		
	Pending Cases		405	418	404	395	403	430	41	5		
	Weighted Filings**		496	511	511	492	506	569	24	2		
	Terminations		456	450	490	482	486	515	27	2		
	Trials Completed		13	13	12	11	11	11	84	6		
Median Time (Months)	From Filing to Disposition	Criminal Felony	10.8	11.7	11.0	12.3	12.8	11.6	70	2		
		Civil**	7.6	7.6	7.6	6.8	6.6	6.1	8	2		
	From Filing to Trial (Civil Only)**		36.0	38.5	37.7	40.6	40.0	40.2	78	6		
Other	Number (and %) of Civil Cases Over 3 Years Old		316	362	307	306	308	321	422			
			5.3	5.8	5.1	5.2	5.1	5.0				
	Average Number of Felony Defendants Filed per Case		1.2	1.1	1.1	1.1	1.1	1.2				
	Jurors	Average Present for Jury Selection	67.9	81.0	78.1	64.0	62.0	52.0				
		Percent Not Selected or Challenged	34.9	20.7	37.2	37.5	37.4	24.4				

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	8,085	156	702	1,278	40	67	974	1,262	779	343	1,191	26	1,267
Criminal*	777	16	216	35	120	229	44	23	7	26	13	15	33

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

NEW YORK EASTERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		7,044	6,547	6,816	7,363	7,497	7,610	U.S.	Circuit
	Terminations		7,116	7,689	6,428	7,541	7,458	7,526		
	Pending		10,258	9,196	9,561	9,438	9,725	9,747		
	Percent Change in Total Filings Current Year Over Earlier Year						1.5	Over Last Year	46	1
			8.0	16.2	11.6	3.4	Over Earlier Years		44	4
Number of Judgeships			15	15	15	15	15	15		
Vacant Judgeship Months**			12.0	8.8	11.4	12.0	12.0	26.8		
Actions per Judgeship	Filings	Total	469	436	454	491	500	507	31	2
		Civil	383	364	380	410	416	434	23	1
		Criminal Felony	54	45	53	55	59	50	66	4
		Supervised Release Hearings	32	27	21	26	25	23	54	4
	Pending Cases		684	613	637	629	648	650	13	2
	Weighted Filings**		494	500	530	539	561	597	16	1
	Terminations		474	513	429	503	497	502	32	3
	Trials Completed		18	16	18	20	20	22	37	3
Median Time (Months)	From Filing to Disposition	Criminal Felony	17.1	19.5	19.3	18.2	18.0	15.1	88	5
		Civil**	10.8	12.6	9.5	8.9	8.9	8.7	45	2
	From Filing to Trial (Civil Only)**		34.6	30.4	32.0	28.4	29.3	31.6	61	2
Other	Number (and %) of Civil Cases Over 3 Years Old		752	942	1,255	1,172	1,224	1,155		
			9.2	13.2	16.7	15.8	16.0	14.9	82	4
	Average Number of Felony Defendants Filed per Case		1.6	1.6	1.5	1.5	1.6	1.7		
	Jurors	Average Present for Jury Selection	96.1	93.0	95.5	92.8	90.4	99.1		
		Percent Not Selected or Challenged	38.5	37.0	38.5	38.9	40.0	40.0		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6,516	220	165	734	45	81	1,114	628	604	175	1,615	16	1,119
Criminal*	744	10	315	111	53	120	16	34	12	5	12	20	36

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. District Court -- Judicial Caseload Profile

OHIO SOUTHERN			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		3,524	3,330	3,393	3,392	3,400	3,305	U.S.	Circuit
	Terminations		3,340	3,626	3,219	3,415	3,501	3,490		
	Pending		3,560	3,281	3,460	3,423	3,499	3,292		
	Percent Change in Total Filings Current Year Over Earlier Year						-2.8	Over Last Year	68	8
-6.2			-0.8	-2.6	-2.6	Over Earlier Years		75	9	
Number of Judgeships			8	8	8	8	8	8		
Vacant Judgeship Months**			0.0	0.0	8.9	7.3	4.3	0.0		
Actions per Judgeship	Filings	Total	441	416	425	424	425	413	55	6
		Civil	355	333	334	332	334	326	46	5
		Criminal Felony	52	54	64	65	65	58	51	5
		Supervised Release Hearings	34	29	27	27	26	29	37	4
	Pending Cases		445	410	433	428	437	412	50	6
	Weighted Filings**		458	454	466	453	465	454	44	5
	Terminations		418	453	402	427	438	436	48	3
	Trials Completed		24	22	21	20	23	26	21	3
Median Time (Months)	From Filing to Disposition	Criminal Felony	8.7	8.9	9.5	8.3	8.3	8.4	40	4
		Civil**	10.6	10.3	10.6	10.4	10.6	9.9	63	4
	From Filing to Trial (Civil Only)**		28.4	36.0	26.0	25.9	25.7	38.7	76	8
Other	Number (and %) of Civil Cases Over 3 Years Old		197	196	187	192	193	163	514	
			6.5	7.2	6.7	6.9	6.8	6.0		
	Average Number of Felony Defendants Filed per Case		1.5	1.5	1.4	1.3	1.4	1.4		
	Jurors	Average Present for Jury Selection	53.2	53.7	48.3	42.4	42.9	43.8		
		Percent Not Selected or Challenged	42.8	36.9	37.8	38.1	35.9	41.5		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2,605	342	79	363	35	46	277	290	152	106	624	3	288
Criminal*	463	14	109	59	58	72	11	73	6	20	12	10	19

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."



## U.S. District Court -- Judicial Caseload Profile

PENNSYLVANIA MIDDLE			12-Month Periods Ending						Numerical Standing Within	
			September 30				December 31			
			2007	2008	2009	2010	2010	2011		
Overall Caseload Statistics	Filings*		2,937	3,021	3,017	3,327	3,258	2,964	U.S.	Circuit
	Terminations		2,905	2,960	2,892	3,224	3,186	2,966		
	Pending		2,587	2,666	2,711	2,778	2,784	2,782		
	Percent Change in Total Filings Current Year Over Earlier Year						-9.0	Over Last Year	83	4
			0.9	-1.9	-1.8	-10.9	Over Earlier Years		57	4
Number of Judgeships			6	6	6	6	6	6		
Vacant Judgeship Months**			0.0	0.0	14.0	29.3	32.3	33.5		
Actions per Judgeship	Filings	Total	490	504	503	555	543	494	33	3
		Civil	403	409	419	474	464	422	25	3
		Criminal Felony	75	77	68	61	58	56	58	1
		Supervised Release Hearings	12	18	16	20	21	16	68	1
	Pending Cases		431	444	452	463	464	464	32	4
	Weighted Filings**		500	536	497	548	529	493	38	3
	Terminations		484	493	482	537	531	494	34	3
	Trials Completed		35	29	35	30	26	26	21	2
Median Time (Months)	From Filing to Disposition	Criminal Felony	11.9	10.6	13.4	11.5	11.5	12.6	75	3
		Civil**	7.6	7.6	6.9	5.5	5.5	7.4	19	4
	From Filing to Trial (Civil Only)**		26.3	36.5	25.0	26.1	29.8	29.1	51	3
Other	Number (and %) of Civil Cases Over 3 Years Old		131	144	81	104	116	212		
			6.4	6.8	3.7	4.6	5.2	9.4	73	3
	Average Number of Felony Defendants Filed per Case		1.6	1.5	1.4	1.6	1.6	1.5		
	Jurors	Average Present for Jury Selection	32.9	38.9	40.0	17.3	19.5	33.5		
		Percent Not Selected or Challenged	28.9	39.9	35.4	27.5	36.2	37.7		

## 2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense

Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2,533	140	35	953	5	155	110	233	182	34	426	1	259
Criminal*	333	4	81	52	27	60	22	27	4	16	13	8	19

[Click here for an explanation of the profile fields and nature of suit and offense classification.](#)

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings by "Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."