

**BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

IN RE TAKATA AIRBAG LITIGATION

MDL Docket No. 2599

**MEMORANDUM OF LAW OF DEFENDANTS TK HOLDINGS, INC. AND HIGHLAND
INDUSTRIES, INC. IN RESPONSE TO PLAINTIFFS' MOTION FOR TRANSFER AND
CONSOLIDATION PURSUANT TO 28 U.S.C. § 1407**

Defendants TK Holdings, Inc. and Highland Industries, Inc. (individually and collectively, "Takata" or the "Takata Defendants") respectfully submit this Memorandum of Law in Response to Plaintiffs' Motion for Transfer of Actions to the Southern District of Florida Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceeding ("Motion for Transfer"), Dkt. No. 1. Like all of the interested parties, the Takata Defendants agree that transfer and consolidation is appropriate under Section 1407. The Takata Defendants submit that in light of the nationwide scope of this litigation, as well as extensive concurrent governmental investigations regarding the same subject matter, the transferee forum should be one that is centrally located for the bulk of the existing litigation, regulatory activities, witnesses and counsel. The Western District of Pennsylvania, sitting at a junction between the East Coast and the Midwest, offers a convenient forum whose MDL docket is not overtaxed.

Western Pennsylvania is located close to the large majority of pending cases and counsel, which are primarily clustered in the eastern or eastern-middle part of the country. The Western District of Pennsylvania also is near most of the U.S. manufacturing facilities maintained by the Defendants and is thus convenient for the parties and potential witnesses. It is well-served by air, including for those traveling from more remote locations such as the West Coast. Finally, the

district court does not have a crowded MDL docket and Judge Fischer, who has been assigned the pending class action, *Gerhart*, has a strong track record of efficient and effective case management with a substantial background in complex litigation.

Certain plaintiffs' arguments both for and against the two most geographically remote locations, the Southern District of Florida and the Central District of California, eschew a central location best suited for this nationwide litigation and reflect a significant dose of strategic jockeying. Neither of these locations on opposite extremes of the country would serve the best interests of the parties, witnesses or counsel.

FACTUAL BACKGROUND

A. The Nationwide Class Action Litigation

Currently pending are nearly 50 proposed economic loss class actions filed in at least 18 district courts. The complaints generally allege that millions of Takata airbags installed in vehicles manufactured by Honda, Toyota, Ford, BMW, Nissan, Chrysler, GM, Mazda, and/or Subaru are defective and pose a risk of harm if deployed. The putative class representatives, however, do not claim that they have suffered any physical harm and do not seek recovery for any personal injuries. Rather, they contend that their vehicles and the vehicles of the proposed class members have diminished value, and that they have suffered other economic losses because their vehicles *have already been* subject to airbag-related recalls. They further claim that some of the proposed class members' vehicles may be identified for airbag-related recalls in the future. Plaintiffs assert that this is a national problem and that loss to them exists irrespective of where they live or the conditions under which their vehicles are maintained.

The majority of the lawsuits include proposed class members from and causes of action under the laws of more than one state, as well as under federal law.¹ For example, the *Dunn* case, brought in the Southern District of Florida by the Plaintiffs who filed this Motion for Transfer, includes a proposed class representative from 9 different states and Puerto Rico, asks for certification of a nationwide class action under Michigan law and also seeks 10 separate class actions under the laws of each of the proposed class representatives' home jurisdictions. Nearly half of the currently identified economic loss class actions similarly ask for certification of a nationwide class under the law of a state that is *not* the state where the case is filed or ask for subclasses on behalf of persons who reside outside the state of filing. Notably, the *Dunn* counsel are simultaneously pursuing a mirror class action in California and have acknowledged that they are hedging their bets. See Expect More Class Suits Over Air Bags, Plaintiffs' Atty Says, Law360 (Oct. 30, 2014), available at http://www.law360.com/articles/591832/expect-more-class-suits-over-air-bags-plaintiffs-atty-says?article_related_content=1.

The complaints generally acknowledge that, pursuant to the authority of the Department of Transportation, NHTSA has repeatedly been notified of and called to investigate the safety of Takata airbags. Plaintiffs note that over 7 million vehicles already have been subject to recall and that, as recently as October 22, 2014, NHTSA issued a Consumer Advisory urging vehicle owners to respond promptly to recall notices and obtain available replacements of their airbags. See, e.g., *Dunn* Compl., No. 14-24009, Dkt. No. 1 at ¶¶ 127-28 (citing Consumer Advisory). In addition, on November 9 and 18, 2014, NHTSA made certain public statements regarding its

¹ Commonly pled causes of action include fraud, consumer fraud (under various state statutes), violation of the Magnuson Moss Warranty Act and state law breach of warranty. See, e.g., *Dunn* Compl., No. 14-24009, Dkt. No. 1 at ¶¶ 148-49, 167-577 (seeking nationwide and/or statewide relief under the laws of Michigan, Connecticut, Louisiana, Massachusetts, New Jersey, New York, Oregon, Puerto Rico, Texas, and Hawaii).

ongoing investigations and its assessment of the public safety issues.² In pursuit of those investigations, NHTSA also served TK Holdings with a Special Order, akin to an administrative subpoena, requiring production of documents the Agency deems relevant to its assessment of public safety issues.

B. The Motion For Transfer And The Status Of Currently Pending Cases

The Motion for Transfer was brought by the *Dunn* plaintiffs only days after they filed their economic loss class action complaint. They identified four related class action lawsuits (the “Related Actions”): one in the Southern District of Florida; one in the Eastern District of Michigan; and two in the Central District of California. Not surprisingly, the *Dunn* plaintiffs seek transfer to the Southern District of Florida, their chosen forum and where their lead counsel resides. *See* Mot. for Transfer at 2-3.

Plaintiffs in two of the Related Actions also filed memoranda of law supporting the creation of an MDL. The Florida plaintiffs asked for transfer to the Southern District of Florida. The California plaintiffs asked for transfer to the Central District of California. *See Bonet* Interested Party Resp. in Support of Mot. at 1, Dkt. No. 7 (Nov. 6, 2014); *Archer-Klinger* Interested Party Resp. in Partial Opp. to Mot. at 1, Dkt. No. 47 (Nov. 19, 2014). The *Takeda* plaintiffs, whose case is filed in the Central District of California, did not file an Interested Party Response. It seems they are agnostic as to the choice between Florida and California because, as noted above, their counsel has effectively placed bets on both venues. The lead firm representing the *Takeda* group is also co-counsel in *Dunn*.

² *See* David Friedman, Op-Ed: NHTSA: We've Acted Quickly, Forcefully, *available at* <http://www.usatoday.com/story/opinion/2014/11/09/national-highway-traffic-safety-administration-air-bags-takata-editorials-debates/18776153/>; Nov. 18, 2014 NHTSA Press Release, *available at* <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2014/DOT-calls-for-national-recall-of-takata-driver-air-bags> (“[M]illions of vehicles must be recalled . . . and our aggressive investigation is far from over. We’re pushing Takata and all affected manufacturers to issue the [nationwide] recall.”).

The rate of filings rapidly increased following the initial suits in Florida and California, with new proposed economic loss class actions filed by different groups of plaintiffs' lawyers across the country. Currently, there are nearly 50 related economic loss class actions pending in at least 18 districts (the "Pending Actions"). *See* Schedule of Pending Actions, Ex. A. All of the plaintiffs who have thus far filed an Interested Party Response have supported creation of an MDL; but they do not necessarily support either the Florida or the California contingents' choice of forum. Several of the plaintiffs support coordination in the Northern District of Georgia and one asks for the Eastern District of Michigan.

The Takata Defendants agree that transfer and consolidation under Section 1407 is necessary to avoid duplication of effort and inconsistent rulings and will promote the most just and efficient conduct of such actions. *See* 28 U.S.C. § 1407(a). Coordination of cases will be particularly beneficial as all of the cases are in their earliest stages. No case is meaningfully ahead of any other, albeit the *Dunn* plaintiffs, alone, are pressing for discovery ahead of the Panel's decision on the pending motion. No responsive pleadings or motions have been filed. In fact, other plaintiffs' firms have, upon request, agreed to a stay of further proceedings until the cases can be managed by a single MDL judge.

ARGUMENT

A. Transfer And Coordination Will Promote The Just And Efficient Conduct Of This Nationwide Litigation

Multidistrict consolidation is designed to "promote the just and efficient conduct of civil actions involving one or more common questions of fact that are pending in different districts." *In re Phenylpropanolamine (PPA) Prods. Liab. Lit.*, 460 F.3d 1217, 1229 (9th Cir. 2006) (quoting 28 U.S.C. § 1407 (a)). There is a clear consensus among all interested parties that this nationwide litigation should be transferred and consolidated for purposes of pretrial proceedings.

The JPML routinely coordinates class action lawsuits. *See, e.g., In re National Hockey League Players' Concussion Injury Litig.*, MDL No. 2551, 2014 WL 4091257, at *1 (J.P.M.L. Aug. 19, 2014) (coordinating class action cases arising out of alleged injuries from long-term effects of concussions); *In re General Motors LLC Ignition Switch Litig.*, MDL No. 2453, 2014 WL 2616829, at *1 (J.P.M.L. Jun. 12, 2014) (coordinating class action cases arising out of alleged defect with certain ignition switches). Recognizing the utility of an MDL in such circumstances, the Panel has held that, “[c]entralization under Section 1407 is . . . necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (particularly with respect to overlapping class certification requests), and conserve the resources of the parties, their counsel and the judiciary.” *In re Bridgestone/Firestone Inc. ATX, ATX II, & Wilderness Tires Prods. Liability Litig.*, MDL No. 1373, 2000 WL 33416573, at *2 (J.P.M.L. 2000). In fact, litigations with competing and overlapping putative nationwide classes “present[] one of the strongest reasons for transferring such related claims to a single district for coordinated or consolidated pretrial proceedings.” *In re Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L. 1970). Given the overlap between the claims and classes asserted, “centralization will create convenience for the parties and witnesses and will promote the more just and efficient conduct of this litigation.” *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Prods. Liab. Litig.*, 704 F. Supp. 2d 1379, 1381 (J.P.M.L. 2010).

B. The Western District Of Pennsylvania Is The Most Appropriate Forum for MDL Transfer

Factors generally recognized by the JPML in choosing a transferee district include whether it: (1) is convenient, considering geographic centrality and accessibility; (2) is not overtaxed with other MDL cases; (3) has a related action pending on its docket; and (4) has a

judge with some degree of expertise in handling the issues presented. ANNOTATED MANUAL FOR COMPLEX LITIGATION, § 22.32, p. 541 (4th ed. 2007).

1. The Western District Of Pennsylvania
Provides Geographic Centrality And Accessibility.

In cases involving nationwide and geographically dispersed claims, such as this, the JPML frequently selects a federal district that is relatively central and accessible for all parties. *See In re TJX Companies, Inc.*, 505 F. Supp. 2d 1379, 1380 (J.P.M.L. 2007) (“Given the geographic dispersal of the actions, no district stands out as the geographic focal point for this nationwide docket. Thus, we have sought a transferee district that is centrally located for the parties[.]”).

The Western District of Pennsylvania is centrally located and convenient for both the parties and their counsel. The clear majority of cases are filed in the eastern half of the country. In fact, excluding the California claimants and one case in the Western District of Missouri, all of the claims are filed east of the Mississippi. *See Rickert Interested Party Resp.* at 5, Dkt. No. 102 (Nov. 21, 2014) (“[T]he convenience of the parties and witnesses is decidedly in the eastern United States. The Central District of California is demonstratively inconvenient when all eighteen defendants are considered as a whole.”). Further, Pittsburgh is well served by several major airlines, including with regular flights from more remote locations on the West Coast. *See Route Map Nonstop Service from Pittsburgh*, available at http://www.pitairport.com/route_map.

Pittsburgh straddles the geographic line between the East Coast and the Midwest -- the center of the automobile industry. As the map at Exhibit B shows, most of the corporate activity in this case is clustered in the Midwestern states.³ Takata’s American headquarters is located in

³ Although American Honda, Toyota USA, and Mazda USA are headquartered in California, Honda, Toyota and Mazda have manufacturing facilities located in the Midwest – in Ohio and Kentucky and Michigan, respectively.

Michigan. The manufacturing defendants also have significant presence in Midwestern states, such that collectively they are present (and seem likely to have relevant witnesses residing) in Ohio, Tennessee, Missouri, Kentucky, Indiana and Michigan. *See, e.g., In re Mirena IUD Products Liab. Litig.*, 938 F. Supp. 2d 1355, 1358 (J.P.M.L. 2013) (noting the defendant was headquartered in New York and affiliates were located nearby and thus “the primary witnesses and documentary evidence on the common factual issues likely will be located in New York and the surrounding area”); *In re White Consol. Indus., Inc., Envtl. Ins. Coverage Litig.*, No. 996, 1994 WL 52568, at *1 (J.P.M.L. Feb. 16, 1994) (siting MDL where party’s principal place of business was located as relevant witnesses and documents were likely to be found there). No Defendant has a corporate presence in Florida. *See Sanchez* Interested Party Resp. at 7-8, Dkt. No. 21 (Nov. 13, 2014) (“[T]here is no reported connection between any Defendant and Florida.”).

2. The Judges In The Western District Of Pennsylvania
Are Well-Suited To Handle This Complex Matter.

In addition to the factors impacting the parties, witnesses and counsel, the JPML also considers several questions related to the Court itself. These include whether there is a related action pending with that court, whether the potential district is “overtaxed” with other MDLs, and the extent to which the court and the potential transferee judge have an established track record of efficient management of complex litigation. *See ANNOTATED MANUAL FOR COMPLEX LITIGATION*, § 22.32, p. 541; *see also In re Nat’l Student Mktg. Litig.*, 368 F. Supp. 1311, 1318 (J.P.M.L. 1972) (noting the importance of median time to disposition when comparing districts); D. Herr, *Multidistrict Litigation Manual: Practice Before the Judicial Panel on Multidistrict*

Also, every other Defendant in these actions maintains North American operations primarily in the Midwest or East Coast regions. *See Exhibit B.*

Litigation, § 6:17 at 210-11 (2009) (the Panel also examines “[t]he percentage of cases over three years old”).

The Western District of Pennsylvania is the site of one pending economic loss class action, *Gerhart*, and has only three currently-pending MDLs. See Pending MDL Dockets by District, available at http://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets_By_District-November-17-2014.pdf. Several Western District Judges have MDL experience and Judge Fischer, to whom the *Gerhart* case is now assigned, has received high praise from lawyers on both sides of the bar and has proven herself an efficient case manager. See Exhibit C, Wolters Kluwer, ALMANAC OF THE FEDERAL JUDICIARY – THIRD CIRCUIT – PENNSYLVANIA, NORA B. FISCHER, DISTRICT JUDGE; PENNSYLVANIA WESTERN (2014). The plaintiffs in *Gerhart* also acknowledge that Judge Fischer is an “excellent jurist” and “certainly qualified to handle these cases.” *Gerhart*, Interested Party Response to Mot., Dkt. 119, at 6 n. 3 (Nov. 26, 2014).⁴ Thus, the Western District of Pennsylvania is a bench with the talent, experience and resources to devote to this important matter.

3. The Southern District Of Florida And The Central District Of California Are Too Remote To Serve This Nationwide Litigation Well.

A contingent of interested plaintiffs’ counsel argue that these cases belong in the Southern District of Florida, claiming that the *Dunn* case is more advanced than all others, that Florida has a unique nexus to the claims at issue, and that the Southern District of Florida is both more central and more qualified than the Central District of California. A separate contingent of

⁴ The *Gerhart* plaintiffs claim to favor the Southern District of Florida or, alternatively, the Eastern District of Michigan over the Western District of Pennsylvania solely because their case was not the first filed and there is no unique “nexus” between Pennsylvania and the harms at issue. As stated elsewhere, there is no reason here to favor the jurisdiction of the first filed case as all of the cases were filed within a brief time period and none is more than a month old. Also, “nexus” to the harm is not a relevant concept in this litigation; no venue has a unique nexus to the harm. What does matter is selecting a central and qualified court. That test favors the Western District of Pennsylvania.

plaintiffs' counsel argue the converse. The pro-California group claims that there is no relevant nexus to Florida for MDL coordination purposes, that Florida is too distant to be a convenient forum and that the Florida bench is no better and maybe less well-equipped than the California court to confront the massive undertaking of managing this litigation. The Takata Defendants agree that both the Southern District of Florida and the Central District of California are geographic outliers – both are too remote to serve well the needs of this nationwide litigation. Further, neither offers any logical hook or nexus for why it should serve as the MDL forum.

Plaintiffs' argument that *Dunn* is ahead of all other cases reflects nothing more than the kind of jurisdictional jockeying on which the federal courts typically frown. *See, e.g., In re Defibrillators Prods. Liab. Litig.*, No. 06-0363, 2006 WL 763212, *3 (D. Minn. Mar. 24, 2006) (denying expedited discovery designed to “jump ahead” of others in anticipation of MDL). The *Dunn* plaintiffs filed their complaint on the same day as the *Takeda* lawsuit and within one week of the first seven cases. They are alone among the more than 42 plaintiffs' firms pursuing these economic loss class actions in that they seek expedited discovery. In other words, if *Dunn* is “ahead” in any way, it is purely by demanding advanced discovery in the face of an impending MDL.

Similarly unpersuasive is their “nexus” argument and, specifically, their claim that Florida has a special interest in this litigation as a state with high humidity. First, many of the Florida complaints include plaintiffs who are not even Florida residents. *See Dunn* Compl., No. 14-24009, Dkt. No. 1 at ¶ 148 (seeking certification for lessees or purchasers of alleged Defective Vehicles residing in Hawaii, Connecticut, Oregon, New York, New Jersey, Massachusetts, Texas, and Puerto Rico); *Bonet* Compl., No. 14-24087, Dkt. No. 1 at ¶¶ 122-23 (seeking a national class of “all persons who purchased or [leased]” a vehicle with allegedly

defective Takata airbags). Second, all of the Florida plaintiffs allege that the defects at issue have nationwide impact and affect vehicles across the country. *See Dunn* Compl., No. 14-cv-24009, Dkt. No. 1 at ¶ 138 (there is “no factual basis for distinguishing between states or regions of the country . . . All states[s] experience seasons of heat and humidity”) (citing Oct. 23, 2014 Letter From U.S. Senators Blumenthal and Market to the U.S. Dept. of Transp. at 1). The Florida Plaintiffs should not be allowed to invoke the argument that this is a regional issue when it suits them for MDL purposes and then disavow it on the merits. Other plaintiffs have pointed out as much. *See, e.g., Sanchez* Interested Party Resp., Dkt. No. 21, at 7 (Nov. 13, 2014) (“[T]he location of geographically-limited recalls should be accorded no significance . . . [D]rivers in any state can and do drive cars into humid climates.”).

Last, the argument the Florida plaintiffs make for a location “central to the harm” does not exist in any relevant MDL case law.⁵ Geographic centrality in the context of the convenience of the litigants, parties and witnesses, not centrality to an alleged “harm,” is what matters and Miami is hardly geographically central. It is not proximate to most of the suits filed to date. It is distant from all of the Defendants’ facilities, and it is far from all other governmental investigations and proceedings. It is not even centrally or conveniently located for the lawyers who will attend MDL conferences – only a relative few law firms have local or nearby offices.

As for the Central District of California, with the vast majority of cases in the eastern/middle of the Country, with Defendants’ facilities overwhelmingly in the Midwest, and

⁵ Plaintiffs appear to be confusing cases arising out of a single catastrophic event, such as the BP oil spill, which may look at the litigation’s “center of gravity.” *See In re: Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico, on Apr. 20, 2010* 731 F. Supp. 2d 1352, 1355 (J.P.M.L. 2010). But the currently pending economic loss class actions do not implicate a “center of gravity” analysis. This case is not about a single event in a single location; it is a nationwide class action purporting to implicate the entire country.

with concurrent investigations proceeding in Washington D.C. and elsewhere on the East Coast, there is no benefit to locating the MDL in California. *See Rickert Interested Party Resp.*, Dkt. No. 102 at 5 (Nov. 21, 2014) (“[T]he convenience of the parties and witnesses is decidedly in the eastern United States. The Central District of California is demonstratively inconvenient when all eighteen defendants are considered as a whole.”).

In short, neither Florida, California, nor any other venue chosen because of where the proposed class members reside can claim a unique or significant relation to the litigation. Plaintiffs have sued on behalf of individuals all over the country whom they claim to be financially harmed by the alleged airbag defects.

CONCLUSION

For the foregoing reasons, the Takata Defendants respectfully requests transfer to and consolidation in the Western District of Pennsylvania.

Dated: November 26, 2014

Respectfully submitted,

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EXHIBIT A

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

IN RE TAKATA AIRBAG LITIGATION

MDL Docket No. 2599

SCHEDULE OF PENDING ACTIONS

Case Caption	Court (Div.)	Civil Action No.	Judge
David Takeda, et al. v. Takata Corporation, et al.	C.D. CA (Western Div.)	2:14-cv-08324- CBM-AS	Hon. Consuelo B. Marshall
Timothy Archer v. Takata Corporation, et al.	C.D. CA (Western Div.)	2:14-cv-08447- MMM-RZ	Hon. Margaret M. Morrow
Luke Hooper, et al. v. American Honda Motor Co. Inc. et al.	C.D. CA (Western – L.A. Div.)	2:14-cv-08565- RGK-JEM	Hon. R. Gary Klausner
Richard Klinger, et al. v. Takata Corporation, et al.	C.D. CA (Western – L.A. Div.)	2:14-cv-08677- GHK-FFM	Hon. George H. King
Lauryn Sanchez, et al. v. Takata Corporation, et al.	C.D. CA (Western – L.A. Div.)	2:14-cv-08727- AB-PJW	Hon. Andre Birotte, Jr.
Kristen Go v. Honda Motor Co., et al.	C.D. CA (Western – L.A. Div.)	2:14-cv-08970 – R-AS	Hon. Manuel L. Real
Jina Bae, et al. v. Takata Corporation, et al.	C.D. CA (Eastern Div.)	5:14-cv-02346- VAP-KK	Hon. Virginia A. Phillips
Michael McLeod, et al. v. Takata Corporation, et al.	C.D. CA Western – L.A. Div.)	2:14-cv-09037- CAS-AJW	Hon. Christina A. Snyder
Kathryn Commiciotto, et al. v. Takata Corporation, et al.	C.D. CA Western – L.A. Div.)	2:14-cv-09065- RGK-JPR	Hon. R. Gary Klausner
Julie Mi Ok Nam, et al. v. Takata Corporation, et al.	C.D. CA Western – L.A. Div.)	2:14-cv-09127- PSG-PJW	Hon. Philip S. Gutierrez
Susana Zamora, et al. v. Takata Corporation, et al.	S.D. CA (San Diego Div.)	3:14-cv-02618- JAH-RBB	Hon. John A. Houston
Howard Morris, et al. v. Takata Corporation, et al.	E.D. MI (Detroit Div.)	2:14-cv-14209- MOB-RSW	Hon. Marianne O. Battani
Linsey Meade, et al. v. Takata Corporation, et al.	E.D. MI (Detroit Div.)	2:14-cv-14338- MOB-RSW	Hon. Marianne O. Battani
Daniel K. Back, et al. v. TK	D. KS	6:14-cv-01388-	Hon. Monti. L. Belot

Holdings, Inc., et al.	(Wichita Div.)	MLB-KMH	
Russ Holland, et al. v. Takata Corporation, et al	(W.D. MO Southern Div.)	6:14-cv-03487-MDH	Hon. Douglas Harpool
Monte Leger v. Takata Corporation, et al.	S.D. TX (Houston Div.)	4:14-cv-03392	Unassigned
Gilbert Art, LLC v. Takata Corporation, et al.	E.D. LA (New Orleans Div.)	2:14-cv-02520-LMA-SS	Hon. Lance M. Africk
Mimi Primeaux, et al. v. Takata Corporation, et al.	E.D. LA (New Orleans Div.)	2:14-cv-02551-HGB-JCW	Hon. Helen G. Berrigan
Jennifer Burch, et al. v. Takata Corporation, et al.	E.D. LA (New Orleans Div.)	2:14-cv-02703	Unassigned
Christopher D. Johnston, et al. v. Takata Corporation, et al.	N.D. FL (Tallahassee Div.)	4:14-cv-00635-MW-CAS	Hon. Mark E. Walker
Thomas R. Rickert, et al. v. Takata Corporation, et al.	M.D. FL (Jacksonville Div.)	3:14-cv-01420-TJC-JBT	Hon. Timothy J. Corrigan
Christopher Paul Day v. Takata Corporation, et al.	M.D. FL (Jacksonville Div.)	3:14-cv-01427-TJC-JBT	Hon. Timothy J. Corrigan
Craig Dunn, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24009-JLK	Hon. James L. King
Ellen Bonet, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24087-DPG	Hon. Darrin P. Gayles
Michael Sanchez, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24182-FAM	Hon. Federico A. Moreno
Shelley Shader, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24343-CMA	Hon. Cecilia M. Altonaga
Yessica Martinez, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24346-PAS	Hon. Patricia A. Seitz
Diana Rennie, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24365-JEM	Hon. Jose E. Martinez
Gail Markowitz, et al. v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24366-FAM	Hon. Federico A. Moreno
Claribel Del Carmen Nunez v. Takata Corporation, et al.*	S.D. FL (Miami Div.)	1:14-cv-23944-JLK	Hon. James Lawrence King
Kurt Scheuerman v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24445-JLK	Hon. James Lawrence King
David Neto v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24446-JAL	Hon. Joan A. Lenard
Brooks Weisblat, et al. v. Honda Motor Co., Inc., et al.	S.D. FL (Ft. Lauderdale)	0:14-cv-62669-RNS	Hon. Robert N. Scola, Jr.
Marc Seals v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24449-DPG	Hon. Darrin P. Gayles

Ryvania M. Fuentes, et al. v. Takata Corporation	S.D. FL (Miami Div.)	1:14-cv-24494-JLK	Hon. James Lawrence King
Richard Clow v. Takata Corporation, et al.	S.D. FL (Miami Div.)	1:14-cv-24497-RNS	Hon. Robert N. Scola, Jr.
Richard D. Arnold, Jr., et al. v. Takata Corporation, et al.	N.D. GA (Atlanta Div.)	1:14-cv-03556-TWT	Hon. Thomas W. Thrash, Jr.
Kimberly Horton, et al. v. Takata Corporation, et al.	D. S.C. (Charleston Div.)	2:14-cv-04433-MDL	Unassigned
Erin K. Meiser, et al. v. Takata Corporation, et al.	W.D. N.C. (Asheville Div.)	1:14-cv-00298	Unassigned
Bonnie Young, et al. v. Takata Corporation, et al.	E.D.N.C. (Southern Div.)	7:14-cv-00267-BO	Hon. Terrence W. Boyle
Marc S. Raiken, et al. v. Takata Corporation, et al.	E.D. PA (Philadelphia Div.)	2:14-cv-06391-RK	Hon. Robert F. Kelly
Michael Schafle, et al. v. Takata Corporation, et al.	E.D. PA (Philadelphia Div.)	2:14-cv-06628-TON	Hon. Thomas O'Neill, Jr.
Mickey Vukadinovic v. Takata Corporation, et al.	E.D. PA (Philadelphia Div.)	2:14-cv-06648-SD	Hon. Stewart Dalzell
Laura Gerhart, et al. v. Takata Corporation, et al.	W.D. PA (Pittsburgh Div.)	2:14-cv-01562-NBF	Hon. Nora Barry Fischer
Donna Bourne v. Takata Corporation, et al.	D.N.J. (Trenton Div.)	3:14-cv-07227-AET-LHG	Hon. Anne E. Thompson
Charles Fishman v. Takata Corporation, et al.	D.N.J. (Newark Div.)	2:14-cv-07244-ES-MAH	Hon. Esther Salas
Sherrey Cioffi, et al. v. Takata Corporation, et al.	S.D.N.Y. (White Plains Div.)	7:14-cv-08920-NSR	Hon. Nelson Stephen Roman
Rafael A. Garcia, et al. v. Takata Corporation, et al.	S.D.N.Y. (Foley Square Div.)	1:14-cv-08960-AT	Hon. Analisa Torres
Matthew Lawrence, et al. v. Takata Corporation, et al.	S.D.N.Y. (Foley Square Div.)	1:14-cv-08963-DAB	Hon. Deborah A. Batts
Yadira Pedraza-Figueroa v. TK Holdings, Inc., et al.*	D.P.R. (San Juan Div.)	3:14-cv-01778-GAG	Hon. Gustavo A. Gelpi

* Previously tagged personal injury action

EXHIBIT B

EXHIBIT C

Almanac of the Federal Judiciary - Third Circuit - Pennsylvania, Nora B. Fischer, District Judge; Pennsylvania, Western

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District Judge; Pennsylvania, Western

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Biographical Information

Born 1951; appointed in 2007 by President G. W. Bush

Education St. Mary's College, B.A., magna cum laude, 1973; Notre Dame Law School, J.D., 1976

Private Practice Partner/Case Manager, Executive Committee, Meyer, Darragh, Buckler, Bebenek & Eck, 1987-91; Partner/Practice Group Leader, Pietragallo, Bosick & Gordon, 1992-07

Academic Positions Former Instructor, National Institute of Trial Advocacy, Univ. of Pittsburgh; Former Instructor, National Institute of Trial Advocacy, Duquesne School of Law; Instructor, Notre Dame Law School Trial Advocacy Course

Other Employment Legal Editor, Callaghan and Company, Chicago, IL, 1976-77

Other Activities Former Special Master/Mediator, Allegheny County Common Pleas Court; Adjunct Settlement Judge/Arbitrator, U.S.D.C. W.D.Pa.; Former, Dalkon Shield Referee, Duke Private Adjudication Center

Professional Associations Former President, Academy of Trial Lawyers of Allegheny County; Pennsylvania Bar Assn. (Former, Co-chair, Task Force on Health Care Delivery in Pennsylvania, 2004; Former Chair and Co-Chair, Commission on Women in the Profession); Fellow, American College of Trial Lawyers; Member and Counselor, Army Reynolds Hay Chapter, American Inns of Court

Other Activities Member, Executive Women's Council of Pittsburgh

Judicial Committees and Activities W.D. Pa. Case Management and ADR Committee; W.D. Pa. Community Outreach Committee; W.D. Pa. Process and Methodology Committee; W.D. Pa. Subcommittee on Special Masters for E Discovery; Third Circuit Civil Instructions Committee

Honors and Awards Anne X. Alpern Award, Commission on Women in the Profession, Pennsylvania Bar Assn., 2001; Professionalism Award, Civil Litigation Section, Allegheny County Bar Assn., 2006; Susan B. Anthony Award, Women's Bar Assn. of Western Pennsylvania, 2012

Lawyers' Evaluation Lawyers said Fischer has excellent legal ability. "Her legal ability is excellent; she is a former trial lawyer and has done a superb job as judge." "Her legal ability is excellent, top-notch." "She is very conscientious in terms of making sure her rulings are supported by the law, and she has a very good practical bent to her handling of cases, which is forged from a very complex commercial litigator background." "Her legal ability is excellent." "She is very smart, very conscientious, more so than needs to be; she has an obsessive need to deal with every issue to its fullest and there is a certain inefficiency to it." "Her legal ability is excellent." "Her legal ability is good and mostly distinguished by being very thorough."

Fischer's courtroom demeanor and judicial temperament are excellent. "You could not ask for a better judge." "She is first rate, highly professional, and evenhanded when dealing with lawyers; she is also very conscientious when it comes to an evenhanded application of the Rules of Evidence, which she knows very well." "Her

demeanor is excellent." "She is a nice lady; she is extremely wonderful and almost excessively respectful." "Her demeanor is very good." "She is very courteous."

Fischer manages the courtroom in a professional manner. "She is very efficient and economical; there is no waste of time." "She is businesslike; she likes the parties to get to the issues, but at the same time she allows people to present their own case." "She always has a very definite plan and is extremely proactive, in a positive way, looking in advance for issues and thinking where a case is going. She is very proactive in case management; she is really good at moving cases along." "She handles trials and proceedings; she is in control and is fastidiously involved in every phase of its p's and q's, but she is ruthless in the courtroom. She is paying attention to everything that is happening." "She is very fair." "She moves things along, but is patient."

Civil lawyers stated Fischer is actively involved with the settlement process. "She was actively involved in encouraging settlement and in the process itself; she conducted the settlement negotiations." "She is very pragmatic; she will not waste time if the parties are not genuinely interested in trying to settle." "She is actively involved in settlement." "She is very active at settlement and very good at it; she is very savvy about hidden agendas. She has very good people skills and is also very matter of fact." "She tries reasonably, but would try hard to see if settlement could work." "She is very aggressive with settlement, but doesn't personally get involved or insist on being involved."

Civil lawyers representing both plaintiffs and defendants said Fischer has no leanings. "She has no leanings." "She is fair." "She has no leanings; most of her work was defense oriented, but I don't perceive any leanings. She is a straight shooter." "She has no leanings; she is from a conservative background but she tries very hard to be fair and straightforward. Basically, she is straight down the middle."

Civil defense lawyers said the following regarding Fischer's leanings: "One tends to think that she is more defense oriented based on her background, but I think she is evenhanded and treats both parties fairly." "She is pro-plaintiff in employment cases."

Criminal defense lawyers said Fischer is fair. "She has no leanings; she is from a conservative background, but she tries very hard to be fair and straightforward. Basically, she is straight down the middle." "She has no leanings." "On substantive matters, she rules for the government."

Criminal defense attorneys interviewed said Fischer is flexible on sentencing. "She is very fair on sentencing, but straight down the line; her deviations would be very modest." "She is flexible on sentencing." "She is one who does vary and depart considerably and frequently down, but rarely up, in sentencing."

Miscellany In private practice Fischer engaged in insurance defense, toxic torts, product liability, employment and civil rights, and insurance coverage. She is a trained mediator and arbitrator, and Daikon Shield Referee.

—
Office Staff

Courtroom Deputy:

John Galovich

II. CIVIL AND CRIMINAL PRACTICES AND PROCEDURES

A. Commencement of Action and General Procedures

1. Initial Status Conference

An initial status conference is scheduled within thirty (30) days of the filing of a responsive pleading, if not sooner.

Chief trial counsel are required to attend and shall obtain full settlement authority prior to the conference. All parties shall be available by telephone. In addition, any underwriter or insurer representative are required to attend in person, but may appear by telephone upon request.

Settlement and ADR options also will be discussed, in depth. In addition, the Court will ask the parties to agree to submit the case to a form of ADR, including mediation, neutral evaluation or final and binding arbitration, as mandated under Local Civil Rule 16.2. Alternatively, the Court may ask the parties to consider trial before a United States Magistrate Judge. Accordingly, counsel shall speak with their clients about all of these issues prior to attending the conference and be prepared to respond, with authority. Every effort should be made to secure agreement on the ADR option and neutral to be employed prior to the initial case management conference.

2. Initial Scheduling Order

At the initial status conference, the case management order is issued, after discussion with lead trial counsel as to the length of time necessary for discovery, handling of expert witnesses and other matters. The case management order includes all relevant deadlines and is set after dispositive motions are decided. E-discovery parameters will be discussed in detail given the district's Local Rules on same.

Generally, 150 days is permitted for discovery unless the parties indicate that a different time frame is needed and the Court approves that time frame. Extensions of time for discovery are permitted for cause shown, provided that the case has been advanced by counsel during the initial period of discovery. Once fact discovery is completed, the Court will then set the time limit for expert discovery, if any.

3. Policy Concerning Contacts with Judge and Clerks

Communication with the Court shall be in the form of motions, accompanied by proposed orders. Counsel are not to send correspondence to Judge Fischer, except where Judge Fischer specifically requests or approves the same. Communications with the Courtroom Deputy and law clerks concerning administration, but not the merits of a case, are permissible. Such inquiries include those pertaining to the status of any pending matter.

4. Motions and Briefs

Counsel should not send courtesy copies of any motion or brief that is available on the CM/ECF System. In the unusual event that a document is not so available, courtesy copies are appreciated. Counsel should also send a courtesy copy of any exhibits or appendix, in excess of twenty (20) pages in addition to filing said exhibits or appendix on the CM/ECF System.

5. Electronic Case Filing

The W.D. Pa. utilizes CM/ECF. It is currently in version 6.0.

B. Pretrial Procedures—Civil

1. Motion Practice

Motions may generally be received at any time, except: (1) when a deadline for the filing of motions is otherwise set by the court; and (2) all motions for reconsideration must be filed within seven days of the court's entry of the challenged order. Parties generally are given 21 days to file a response to a dispositive motion and 14 days to respond to a non-dispositive motion, unless otherwise ordered by the Court. Dispositive motions during trial must be accompanied by a brief, to the extent feasible. Trial briefs are also encouraged.

Briefs in support of motions shall be filed simultaneously with all motions except discovery motions, motions for extensions of time and motions for continuance, for which no briefs are required. The briefs must contain all information relevant to disposition of the pending motion. Incorporating previously filed motions or briefs is

prohibited. There is a brief page restriction of twenty (20) pages for all moving and responsive briefs filed with the Court. The parties must seek leave of Court to file reply and sur-reply briefs and will be limited to five (5) pages, if leave is granted.

The Court entertains oral argument only on selected factually and legally complex matters, but not otherwise. Parties may request argument. An Order will be issued should the Court deem oral argument necessary. At times, if argument is permitted, the Court will begin oral argument by advising the parties of her tentative ruling on the motions and briefs so that counsel can focus their legal arguments and/or highlight important facts of record. After oral argument, the Court may rule from the Bench on the record or take the matter under advisement.

All motions and briefs must be double spaced and cannot use a font size smaller than twelve (12). Pagination is required for all motions and briefs. Each and every motion shall be accompanied by a proposed order of court. The order of court shall include language detailing the specific relief sought and not simply that the motion is granted.

2. Settlement

If a case does not settle by way of ADR, the Court will entertain settlement conferences upon request and consent of all parties during the pendency of any case and will conduct a settlement conference in conjunction with Final Pretrial Conferences held prior to trials.

Chief trial counsel, the client, and any insurer or underwriter with full settlement authority shall attend all settlement conferences, in person. In cases in which there is insurance coverage (or the possibility of insurance coverage), the representative(s) from the carrier(s) or other underwriter(s) shall attend and such insurance carrier representative(s) must have full settlement authority on behalf of the carrier(s) to the full extent of the insurance policy(ies).

If appropriate, considering the case, the Court may recommend referring the case back to the neutral who mediated the case, a new neutral or to a magistrate judge or special master for settlement negotiations.

Usually, within three (3) working days prior to such conference, the parties are to submit by fax brief letters to the Court detailing the relative strengths and weaknesses of their case, as well as settlement postures. Additionally, proposed settlement agreements (confidential) are due within three (3) business days of said conference. Letters will not be filed nor shared with opposing counsel and will be retained as confidential. Accordingly, candor is expected.

Consistent with the initial status conference procedure, at any settlement conference, counsel shall be prepared to discuss and agree to an ADR option.

At all settlement conferences, chief trial counsel shall be prepared to discuss any outstanding dispositive motions, any unusual issues of fact or law as well as counsels' predictions for the amount of time necessary to try the case. It is suggested that counsel confer three (3) working days before the conference to discuss any claims to be reviewed at the settlement conference.

3. Discovery Motions

Parties are limited to twenty-five (25) interrogatories and ten (10) depositions. No standard form restrictions on the number of interrogatories or length of depositions are employed by this Court beyond those set forth in the Federal Rules of Civil Procedure and any pertinent Local Rules. Discovery depositions of expert witnesses are nearly always permitted. Expert witness discovery is reciprocal.

The Court expects counsel to avoid the necessity for the filing of Rule 11 and/or Rule 37 motions through the exercise of good professional judgment, common courtesy and civility. The Court also expects counsel to confer in good faith prior to the filing of any such motion. E-mail communications are not sufficient. The court requires that all discovery motions and motions in limine must be accompanied by a certificate of conferral as set forth in

Local Rules 16.1.C.4, 37.1 and 37.2. Counsel shall meet and confer in an effort to resolve their disputes prior to filing such motions. E-mail communications are not sufficient.

4. Pretrial Conference/Pretrial Orders

Prior to the final pretrial conference, trial counsel will meet with one of this Court's clerks in preparation for the final pretrial conference. The Court will schedule the date and time, generally one week before the final pretrial conference. Counsel should be prepared to inform the law clerk if a separate exhibit hearing will be necessary during this preliminary pretrial conference with the clerk. Further, the parties should be prepared to submit a trial binder to the Court before the Pretrial Conference with the law clerk.

At the final pretrial conference, stipulations, witness lists, exhibits, motions in limine, jury instructions, voir dire, verdict slips and any other pretrial matters will be discussed, in detail, and generally ruled upon. As such, counsel should be prepared to make all arguments thereon. At times, given the nature and extent of exhibits to be used at trial, separate exhibit hearings will be conducted. In addition, at the final pretrial conference, the Court will discuss with the parties the number of hours each party anticipates to present evidence at trial. The Court will also discuss the potential for settlement, noting the court's discretion to tax jury costs for parties who settle "on the courthouse steps."

C. Pretrial Procedures—Criminal

1. Bail Procedures

Usually handled by Magistrate Judge, unless on appeal of a Magistrate Judge's decision.

2. Discovery Procedures

The Government is encouraged to turn over Jencks Act material as early as possible, and generally no later than the date jury selection begins.

All Brady material within the possession or control of the Government or its agents should be disclosed well in advance of trial, and the Government is under a continuous obligation to disclose such material to the defense.

3. Pleas

There are no special rules regarding guilty pleas and no deadlines for accepting or rejecting plea bargains. Counsel are encouraged to plea bargain as early as possible to avoid tying up trial time. The Court follows a written colloquy for entry of the plea.

D. Trial

1. Trial Date

Generally, court is in trial session Monday through Thursday, 9:00 a.m. to 4:30 p.m. with breaks when appropriate unless the jury requests a different schedule. Sometimes the Court asks jurors if they want to stay as late as 5:00 p.m. (after jury selection day(s)). Fridays are generally reserved for pretrial and status conferences, sentences and evidentiary hearings. However, if the court's schedule permits trial will be held on Fridays. Counsel must be available at 8:30 a.m. (or earlier, if necessary to ensure that trial commences on time) and at the conclusion of the trial day to meet with the Court concerning scheduling, trial problems and to obtain advance rulings on evidentiary or other issues. The court tries to limit side bars in this fashion.

Counsel should be on time for each Court session. Trial engagements must take precedence over any other business. If counsel has matters scheduled in other courtrooms, appropriate motions to accommodate these obligations must be promptly filed.

2. Trial Briefs

Unless otherwise scheduled in the pretrial order, motions in limine are to be filed, together with any supporting brief, at least two (2) weeks in advance of trial. Additionally, if a party files a dispositive motion during the course of trial, it shall be accompanied by a brief in support. Rule 50 and Rule 52 motions shall be submitted in writing and be accompanied by a brief.

3. Voir Dire

The Judge conducts the voir dire in criminal cases. In civil cases, the Court's Deputy Clerk and law clerks conduct voir dire and the Judge is available to rule on any disputed issues during civil voir dire. Unless otherwise scheduled in the pretrial order or other Court order, proposed voir dire questions are to be submitted to the Court at least one (1) week prior to trial. Counsel may supplement any standard voir dire with questions they propose. If approved by the Court, the Court will also ask these questions.

For sensitive questions (e.g., questions regarding racial bias, criminal history of the juror or family members, or status of venire persons as victims of crime), the Court conducts individual voir dire outside the presence of other venire persons.

4. Decorum

Counsel need not conduct examinations from the lectern or ask permission to approach a witness. Witnesses, jurors, and opposing counsel should be addressed in an appropriate manner.

5. Opening Statement

The Court does not put strict time limitations on opening statements and closing arguments. However, the Court suggests thirty (30) minutes is reasonable for an opening statement or closing argument, depending on the complexity of the case. With advance notice to opposing counsel and to the Court, visual aids including powerpoint presentations and exhibits may be used during opening statements.

6. Stipulations

Stipulations are to be discussed at the final pretrial conference and will be ruled on therein.

7. Marking Exhibits

All exhibits must be exchanged and marked in advance of trial, so as to not to waste the jury's time. Plaintiffs shall use the "P" and numbers and defendants shall use the letter "D" and numbers. Duplicates should be omitted. Copies are to be provided for the Court in binders properly labeled ("Plaintiff's Exhibits" and "Defendant's Exhibits") at least three (3) days in advance of trial, unless otherwise ordered by the Court. In addition, counsel shall be prepared to compile and agree to a single exhibit binder ("Joint Exhibit Binder"), containing all joint exhibits that will be submitted to the jury, at the close of trial. All exhibits in the Joint Exhibit Binder shall be marked with the letter "J" and numbers.

In civil cases, counsel shall plan to submit at least twelve (12) copies of the Joint Exhibit Binder, eight (8) for the jury and four (4) for the Court. The Deputy or law clerk assigned to the case will retain one of these as the official record of the Court. These amounts will increase if more than 8 or 12 jurors will be seated for trial.

In criminal cases, counsel shall plan to submit 18 copies of the Joint Exhibit Binder, twelve (12) for the jury; two (2) for the alternates; one for the law clerk; one for the Deputy Clerk; one for the court reporter; and one for the Court.

8. Depositions

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For discovery disputes that arise during a deposition, written motions are discouraged. The attorneys together may contact the Court to determine whether the Court wishes to resolve the matter at that time. If the Court makes the decision to handle such discovery dispute, the parties should coordinate a telephone conference with the Court through the Court's Deputy Clerk.

9. Use of Experts

Discovery depositions of expert witnesses are nearly always permitted. Expert witness discovery is reciprocal.

10. Courtroom Technology

The Court requires all parties to retain a professional video operator or an IT consultant and all necessary equipment for any video, or other technology aided presentation, to be shown during trial. That is, counsel is to retain their own operator. Counsel, and the retained operator, if any, shall become familiar with the Courtroom technology prior to trial. Counsel may make arrangements to check out the Court's technology prior to trial by contacting the Deputy Clerk. The Court will not delay trial while a party troubleshoots a technology problem.

11. Objections

When counsel makes objections, the objection and the legal basis for the objection must be stated. In the presence of the jury, counsel should not make any further argument concerning the objection and should not argue with the ruling of the court on the objection. Arguments with respect to objections will generally be heard at the 5:00 p.m. conference with the court, at the following day's conference at 8:30 a.m. or at sidebar.

12. Daily Transcripts

If any party wishes to have daily transcripts, that party must make the necessary arrangements with the court reporter. Counsel and the jury will be provided with a written copy of the instructions.

13. Closing Arguments

The Court may charge the jury prior to closing arguments or after the closing arguments dependent on the case and/or agreement of counsel. In closing argument, counsel may quote the charge verbatim on a particular subject. The jury will be provided with individual copies of the instructions once the charge is given. As noted, the Court suggests closing arguments should not exceed thirty (30) minutes, unless prior leave of Court is obtained. Co-counsel are not permitted to split up closing arguments.

14. Jury Procedures

The Judge permits note taking. Jurors are provided with notebooks and pens.

The jury will be provided with a copy of the final jury instructions.

Generally, the jury will be given all admitted exhibits for use in deliberations. Exceptions are made for dangerous items, such as firearms and drugs, as well as videotapes and/or recordings.

Requests to read back testimony or replay tapes during deliberations generally will be denied. However, if the jury is able to point to a specific portion of testimony or videotape, a jury request to read back testimony or replay tapes may be permitted.

Jurors must submit any questions in written form, dated, timed and signed by the foreperson. All written questions submitted by the jury are supplied to counsel. Counsel and the Court will meet to discuss and hopefully agree on a reply. In most cases, the jury will then be summoned to the courtroom where a verbal reply will be read. A written reply is also provided where appropriate.

Interviewing of jurors post-verdict is discouraged during the post trial motion period, but the jury is told that it is up to them to decide if they choose to be interviewed or not.

15. Sentencing Practices

Sentencing recommendations of the probation officer are not divulged.

Tentative Findings and Conclusions Concerning Disputed Facts or Factors will generally be issued in advance of the sentencing hearing in written form entitled "Tentative Findings and Rulings."

16. Miscellany

In addition to things such as punctuality and preparedness, all counsel and parties to an action are expected to adhere to the Local Rules of Court, in addition to Judge Fischer's Policies and Procedures, found at: http://www.pawd.uscourts.gov/Documents/Judge/fischer_pp.pdf.

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

IN RE TAKATA AIRBAG LITIGATION

MDL Docket No. 2599

CERTIFICATE OF SERVICE

Pursuant to Rule 4.1(a) of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, I, David M. Bernick, counsel for Defendants TK Holdings, Inc. and Highland Industries, Inc., hereby certify that on the 26th day of November, 2014, I electronically filed the foregoing Memorandum of Law of Defendants TK Holdings, Inc. and Highland Industries, Inc. in Response to Plaintiffs' Motion for Transfer of Actions with the Clerk of the Court using the CM/ECF system, which constitutes service of pleadings on registered CM/ECF participants, including the counsel listed below:

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