

# Major Litigation Currently Pending in U.S. District Courts

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This blog will examine recent civil litigation trends in the U.S. district courts (the trial courts in the federal system) and then drill down to look at selected pending litigation in several areas, including antitrust, consumer fraud, employment practices, intellectual property, product liability/personal injury, and securities.

It is true that the vast amount of litigation in the United States takes place in the state courts rather than the federal. In 2018, the [state courts](#) saw approximately 15 million civil cases filed, while the comparable civil caseload for the 94 [U.S. district courts](#) was about 283 thousand.

Still, in spite of these lopsided numbers, it is in the federal courts where most major litigation occurs. It should be noted that a considerable amount of litigation that ends up in the federal courts was originally filed at the state level and then removed to the federal on the basis of diversity (i.e., disputes between citizens of different states).

## Growth in U. S. Civil Filings

Civil case filings in the U.S. district courts increased 6 percent in 2018, growing by 15,167 cases to 282,936, according to the [latest report](#) by the Administrative Office of the U.S. Courts.

Federal question cases (i.e., actions under the U.S. Constitution, laws, or treaties) rose 3 percent to 151,646, the report said. Cases related to the Racketeer Influenced & Corrupt Organizations Act (RICO) surged 222 percent (up 1,370 cases to 1,988), primarily in response to multidistrict litigation (MDL) filings related to national prescription opiate litigation in the Northern District of Ohio.

Cases addressing environmental matters, the report said, climbed 134 percent (up 985 cases to 1,722), mostly because of MDL cases in the Eastern District of Louisiana involving the oil spill by the oil rig Deepwater Horizon. Contract cases increased 34 percent (up 1,282 cases to 5,025), largely due to cases addressing flooding in the Middle District of Louisiana.

Personal injury/product liability litigation rose 23 percent to 57,702 (up 10,759 cases), the report said. The District of New Jersey had a 238 percent increase in personal injury cases (up 9,950 cases to 14,126) resulting from directly filed MDL cases alleging injuries from Johnson & Johnson talcum powder. The Eastern District of Louisiana had a 38 percent rise in personal injury cases (up 3,629 cases to 13,146), mainly because of MDL cases involving the blood-thinning drug Xarelto and the chemotherapy drug Taxotere.

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## Major Pending Civil Cases

One way to get a broad picture of some of the major cases currently pending in the U.S. district courts is to look at cases consolidated by the [Judicial Panel on Multidistrict Litigation](#).

Multidistrict Litigation (MDL) refers to a special procedure in the U.S. district courts (a number of states have similar procedures) designed to speed the process of handling complex cases such as product liability actions involving adverse reactions to drugs and defective consumer products.

When a large number of cases involving similar claims have been filed in different district courts, the MDL panel decides whether the litigation should be consolidated, the objective being the efficient processing of the litigation. Cases so consolidated are sent from the courts where they are pending, known as the transferor courts, to the designated transferee court for all pretrial proceedings and discovery. If the litigation is not settled or dismissed in the transferee court, it is remanded to the original transferor courts for trial.

As of March 15, 2019, there were [205 consolidated MDL cases](#) involving a range of issues including antitrust, consumer fraud, employment practices, intellectual property, product liability/personal injury, and securities.

Note that if you want details on a particular consolidated case (such as issues involved and number of cases consolidated), you can obtain the MDL number from the [Judicial Panel](#) website and then use this number to access details of the litigation via [PACER](#) (Public Access to Court Electronic Records).

### Antitrust Litigation

The listing that follows gives five recent MDL consolidations in antitrust litigation, out of a total of 49 such consolidations currently pending.

**Local TV Advertising Antitrust Litigation**, MDL #2867; date transferred, 10/3/18; transferee court, IL-N. Advertisers accuse Tribune Media, Sinclair Broadcast Group and other media companies of colluding to fix prices for TV ads.

**Diisocyanates Antitrust Litigation**, MDL #2862; date transferred, 10/3/18; transferee court, PA-W. Plaintiffs allege conspiracy to fix price of methylene diphenyl diisocyanate (MDI), used primarily to make polyurethane products such as rigid and flexible foams, adhesives and sealants.

**Chicago Board Options Exchange**, MDL #2842; date transferred, 6/14/18; transferee court, IL-N. Alleged manipulation of the Chicago Board Options Exchange's volatility index.

**Zetia Antitrust Litigation**, MDL #2836; date transferred, 6/8/18; transferee court, VA-E. Lawsuits accuse Merck & Co. of conspiring with generic-drug makers to delay the entry of rivals to its cholesterol drug Zetia. *(Continued on next page)*

**Restasis Emulsion Antitrust Litigation**, MDL #2819; date transferred, 1/31/18; transferee court, NY-E. Plaintiffs allege that Allergan violated antitrust laws by seeking to delay competition from generic versions of its Restasis dry-eye medication.

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## **Consumer Fraud**

The listing that follows gives five recent MDL consolidations in consumer fraud/sales practices, out of a total of 23 such consolidations currently pending.

**Intel Corp. CPU Marketing**, MDL #2828; date transferred, 4/5/18; transferee court, OR. Plaintiffs allege that Intel failed to disclose that a CPU security flaw slows computer processing speeds.

**General Motors Air Conditioning**, MDL #2818; dated transferred, 2/1/18; transferee court, MI-E. Litigation involving the marketing of allegedly defective vehicle air conditioning systems.

**Wells Fargo Auto Insurance**, MDL #2797; date transferred, 10/5/17; transferee court, CA-C. Plaintiffs allege that Wells Fargo and National General Insurance forced unnecessary insurance on borrowers' car loans.

**CenturyLink Sales Practices**, MDL #2795; transferee date, 10/5/2017; transferee court, MN. Plaintiffs allege that defendant engaged in a range of deceptive practices, including billing subscribers for telephone lines or services that they did not request.

**FieldTurf Artificial Turf Marketing**, MDL #2779; date transferred, 6/1/17; transferee court, NJ. Allegation that defendant knew turf was defective when the company installed it in over 1,400 locations.

## **Employment Practices**

The listing that follows gives the two employment practices cases that are currently pending before the MDL panel. These two cases have been in litigation for a number of years and most of the major issues have been adjudicated.

**Amazon.com Fulfillment Center Litigation**, #MDL 2504; date transferred, 2/19/14; transferee court, KY-W. Plaintiffs allege that Amazon and various staffing agencies violate federal and state wage and hour laws by requiring workers warehouse "fulfillment centers" to pass through lengthy anti-theft security screening after clocking out at the end of their shifts, without compensation for that time.

**FedEx Ground Package System Employment Practices**, #MDL 1700; date transferred 8/10/05; transferee court, IN-N. FedEx drivers allege failure on part of company to reimburse for business expenses and back pay for overtime.

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## **Intellectual Property**

The listing that follows gives five recent MDL consolidations in intellectual property, out of a total of eight such consolidations currently pending (all patent cases).

**RAH Color Technologies**, MDL #2874; date transferred 12/6/18; transferee court, CA-N. Actions involving infringement, validity and enforceability of nine related patents owned by RAH in the field of color management technology.

**Iron Oak Technologies**, MDL #2835; date transferred 6/11/18; transferee court, TX-N. Patent infringement actions relating to processes used to remotely update computer operating software on computer laptops, smartphones, smart TVs, and smart printers.

**PersonalWeb Technologies**, MDL #2834; date transferred 6/6/18; transferee court, CA-N. Litigation involving cloud computing infringement action.

**Liquid Toppings Dispensing System**, MDL #2832; date transferred 4/5/18; transferee court, FL-S. Infringement lawsuits involving the validity and enforceability of patent that describes a “mobile confectionary apparatus.”

**Industrial Print Technologies**, MDL #2614; date transferred 4/7/15; transferee court, TX-N. Patents in the litigation involve industrial printing and methods for executing print jobs that include variable data.

## **Product Liability/Personal Injury Cases**

The listing that follows gives five recent MDL consolidations in product liability/personal injury, out of a total of 68 such consolidations currently pending.

**Valsartan Products**, MDL #2875; date transferred 2/14/19; transferee court, NJ. Plaintiffs allege that Valsartan, a generic blood pressure medication, is contaminated with an impurity that may cause cancer.

**Aqueous Film-Forming Foams**, MDL #2875; date transferred 12/7/18; transferee court, SC. Allegation that a fire suppressant contaminated groundwater and harmed humans.

**Zimmer Hip Prosthesis**, MDL #2859; date transferred 10/3/18; transferee court, NY-S. Lawsuits allege patients suffered from metal-related injuries and complications after receiving artificial hip prostheses.

**Zostavax (Zoster Vaccine Live)**, MDL #2848; date transferred 8/2/18; transferee court, PA-E. Plaintiffs allege vaccine Zostavax may cause serious injuries, including shingles.

**Polypropylene Hernia Mesh**, MDL #2846; date transferred 8/2/18; transferee court, OH-S. Plaintiffs allege hernia mesh used in repair surgeries has been related to a number of severe complications including pain, infection and organ perforation.

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## **Securities Litigation**

The listing that follows gives three recent MDL consolidations in securities litigation, out of a total of eight such consolidations currently pending.

**SunEdison Securities Litigation**, MDL #2742; date transferred 10/4/16; transferee court, NY-S. Allegation that SunEdison and certain corporate insiders made misrepresentations regarding SunEdison's business and operations, including failure to disclose that it did not have the financial resources to sustain its acquisition binge.

**Barclays Liquidity Cross and High Frequency Trading Litigation**, MDL #2589; date transferred, 12/12/2014; transferee court, NY-S. Plaintiffs allege that the British bank defrauded investors, with exchanges' help, using a high-speed trade system that secretly favored preferred clients.

**TelexFree Securities Litigation**, MDL #2566; date transferred, 10/21/14; transferee court, MA. Investors seek to recoup losses they sustained through what they allege was a pyramid scheme that involved approximately 2 million participants worldwide, nearly 1 million of whom suffered financial loss.