

Social Media Addiction Litigation and Other Mass Torts to Watch in 2023

(by Robert S. Want, January 3, 2023)

Mass tort litigation — which consists of product liability cases where many people are allegedly harmed in a similar way by a similar product — is playing an ever-increasing role in federal and state civil caseloads. At the federal level, it is estimated that over half of pending civil actions involve mass torts. Hundreds of law firms and thousands of attorneys are involved in litigating these cases.

New litigation that has recently received mass tort status involves social media addiction cases filed against Facebook and other social media platforms. These lawsuits allege that the companies employ algorithms that promote social media addiction and increased anxiety among teens.

JPML Consolidation of Social Media Addiction Cases

Because of the growing number of social media addiction cases being filed in federal district courts, the [U.S. Judicial Panel on Multidistrict Litigation](#) (JPML) has decided to create a multidistrict docket for this litigation, which centralizes the cases in one district court under one judge. As of Jan 3, 2023, there were 126 such cases pending, and plaintiffs' lawyers expect this number to rise significantly going forward.

(For additional information on this litigation and other pending multidistrict litigation (MDL) cases, see [MDLCases.com](#).)

The social media addiction lawsuits raise similar claims — a basic requirement for JPML consolidation — alleging that the platforms are intentionally designed to manipulate and maximize user time and engagement, and that these tactics cause addiction and self-destructive behavior among teens, especially among young girls.

While most of the social media addiction suits have been brought against Meta Platforms Inc. (the parent company of Facebook and Instagram), civil actions have also been filed against Alphabet Inc. (parent company of Google and YouTube), Snap, and ByteDance Inc. (parent company of TikTok).

New Arena for Mass Tort Claims

The social media addiction litigation represents a notable departure for mass tort litigation, which up to now has been concerned with physical products such as medical devices, drugs (e.g., opioids), industrial chemicals and consumer goods. The addiction lawsuits, on the other hand, focus on a product less tangible: social media platforms and how they can lead to dependency and poor mental health outcomes in teens, including eating disorders, self-harm, depression and suicidal thoughts. Plaintiffs in the litigation accuse the companies of deliberately using algorithms that encourage addiction despite knowing the consequences.

As this litigation plays out over the next year and beyond it will test whether the traditional mass tort model can apply in a new context — a context in which the product is intangible and plaintiffs' injuries deal with highly personal mental health issues. Mass tort litigation consolidated by the JPML typically requires that the harm allegedly suffered by plaintiffs be of a similar nature, such as burns suffered from a defective pressure cooker.

Defendants in the litigation can be expected to seek dismissal of the consolidated litigation, arguing that the alleged harm varies too much from plaintiff to plaintiff, and the cases, if they are to be litigated at all, are best handled on an individual basis rather than a consolidated one.

Bellwether Trials

When an MDL docket is created and the cases transferred, the JPML appoints a transferee court judge who manages the litigation during the pretrial and discovery process. In the social media addiction litigation (MDL #3047), the judge is Yvonne Gonzalez Rogers and the court is the Northern District of California. The judge in MDL cases typically encourages disposition of the litigation through settlement conferences, and those cases not settled during pretrial are sent back to the original courts — the transferor courts — for disposition by trial or further attempts at settlement.

It is also typical for the transferee judge to schedule a few “bellwether” trials, which are intended to provide an indicator of what the parties might expect in their individual lawsuits. If the plaintiffs prevail in the bellwether trials, then the defendants will likely be motivated to settle the remaining claims before returning to the transferor courts.

Other Recent JPML Consolidations

In addition to the social media addition litigation (MDL #3047), here are other recent JPML consolidations that bear watching in the period ahead (for additional information on these and other pending MDL cases, see MDLCases.com):

- MDL #3051, [IN RE: Chrysler & GM ARC Airbag Inflators Products Liability Litigation](#)
Issue: ARC airbag inflators alleged to have a defect that can cause them to rupture, dispersing shrapnel, and injuring or killing vehicle occupants.
Transfer granted 12/15/22, to Judge Eleanor L. Ross in the Northern District of Georgia.
- MDL #3050, [IN RE: Chantix \(Varenicline\) Sales Practices and Products Liability Litigation](#)
Issue: Plaintiffs claim they purchased or ingested smoking cessation Chantix containing a probable human carcinogen and, as a result, suffered economic losses and require medical monitoring.
Transfer granted 12/22/22, to Judge Katherine Polk Failla in the Southern District of New York.
- MDL #3044, [IN RE: Exactech Polyethylene Orthopedic Products Liability Litigation](#)
Issue: Plaintiffs allege that their knee or hip replacement devices failed prematurely because of degradation of the device's polyethylene component, which resulted in the premature removal of the prosthesis at issue.
Transfer granted 10/7/22, to Judge Nicholas G. Garaufis in the Eastern District of New York.
- MDL #3043, [IN RE: Acetaminophen \(Tylenol\) Autism/ADHD Products Liability Litigation](#)
Issue: Plaintiffs allege that they used over-the-counter generic acetaminophen products (Tylenol) while pregnant and, as a result of prenatal exposure to acetaminophen, their children developed autism spectrum disorder (ASD), attention deficit hyperactivity disorder (ADHD), or both.
Transfer granted 10/5/22, to Judge Denise L. Cote in the Southern District of New York.
- MDL #3037, [IN RE: Recalled Abbott Infant Formula Products Liability Litigation](#)
Issue: Alleged contamination of certain powdered infant formulas manufactured at Abbott's manufacturing facility in Sturgis, Michigan.
Transfer granted 8/5/22, to Judge Matthew F. Kennelly in the Northern District of Illinois.
- MDL #3036, [IN RE: Gardasil Products Liability Litigation](#)
Issue: Plaintiffs allege that their minor children developed postural orthostatic tachycardia syndrome (POTS) and various other injuries as the result of an autoimmune reaction to the Gardasil vaccine, which is recommended for the prevention of certain strains of the human papillomavirus (HPV) and various cancers.
Transfer granted 8/4/22, to Judge Robert J. Conrad Jr. in the Western District of North Carolina.

JPML Consolidations as Dominant in Civil Litigation

Consolidation of mass torts (i.e., centralization in one district for pretrial proceedings) has become over the years the dominant component of civil litigation in the U.S. district courts. According to JPML statistics current as of December 15, 2022, there were 399,840 MDL cases pending in federal district courts around the country, constituting approximately 65% of total district court pending actions.

Though there are JPML consolidations other than mass torts (e.g., antitrust, patents, sales practices litigation), over 95 percent of pending MDL cases in fact consist of mass torts.

The five largest MDLs by total cases pending (as of Dec 15) all involve mass tort (product liability) issues. They are as follows: (1) 3M combat arms earplugs litigation, 262.0K (MDL #2885); (2) J&J talcum powder litigation, 37.5K (MDL #2738); (3) Hernia mesh litigation, 18.2K (MDL # 2846); (4) Proton-pump inhibitor litigation, 13.4K (MDL #2789); and (5) Taxotere cancer medication litigation, 10.8K (MDL #2740).