**Mass-Tort MDL Certificate & Advanced Certificate Program | March 11–13, 2020**

## Materials

**General Session Materials:**

[Cumulative Multidistrict Litigation Terminated Through Sept. 30, 2019](https://duke.box.com/s/be6fjc5vwavqriphqrj5b0trky9h5h9t)

[Pending MDL Dockets By Actions Pending Feb. 14, 2020](https://duke.box.com/s/ymncyvh0mswbpds71l6j9da5yeu6u7im)

[Pending MDL Dockets By District Feb. 19, 2020](https://duke.box.com/s/wf1d089oagmuvk6l9oh9xcbdbr1brqta)

[Pending MDL Dockets By MDL Type Feb. 14, 2020](https://duke.box.com/s/ld8smmwr9umnbxpsf3y878y6n9sy9chl)

**SESSION 1: The Decision to File** - Purpose and timing of MDL; strategic decisions re: filing state actions or seeking MDL; timing and venue of MDL; motions to centralize; tag-along cases; jurisdiction and choice of law

**SESSION 2: The JPML Process** - Scheduling JPML hearing and lawyer presentations; how panel chooses transferee judge; trends in centralizing cases; role of Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation

[Panel Rules Effective Oct. 4, 2016](https://duke.box.com/s/o5p3xbn0ibpuqfcwg7yffy5o4zkf3li0)

[Summary of Panel Rules Revised Oct. 4, 2010](https://duke.box.com/s/7cumhgm2atgdj1nrwjetvslq5nrxyrm9)

[JPML Calendar Year Statistics - 2018](https://duke.box.com/s/2yi401ocussjm10vj7mk0c2odm2wqys6)

[JPML Calendar Year Statistics - 2019](https://duke.box.com/s/rjjc8rhi4lw5he9lu3cwocmeubj8xcw8)

**Lunch Session:** **Handling Media Attention** - How to approach traditional and social media outlets; confidentiality issues; gag orders; disputes over document sealings; settlement orders

[New breed of investor profits by financing surgeries for desperate women, Alison Frankel and Jennifer Dye, Reuters, Aug. 18, 2015](https://duke.box.com/s/bmi2x1z91tnewkc0woyg3ush4k0wr6wg)

[Exposing the underbelly of mass torts litigation, Alison Frankel, Reuters, May 24, 2016](https://duke.box.com/s/eizmisikw22zbwslcf34360bzuyc4q6s)

[Can this judge solve the opioid crisis, Jan Hoffman, The New York Times, Mar. 5, 2018](https://duke.box.com/s/kvayo6xov1sftl57h2qb9vj5cyom8l2i)

[In NFL concussion appeal, 3rd Circuit confronts scope of MDL, class action judges’ power, Alison Frankel, Reuters, Feb. 7, 2019](https://duke.box.com/s/3ng9kmcgzp6o2pqr599i32dn8ah6nhz0)

[State AGs pose big obstacle for novel opioids negotiating class proposal, Alison Frankel, Reuters, June 26, 2019](https://duke.box.com/s/9evgn2wbhdi3d1dhktarrgzsaznpvyv8)

[States Clash with Cities over Potential Opioids Settlement Payouts, Jan Hoffman, The New York Times, Aug. 5, 2019](https://duke.box.com/s/hrukrfntcwhuaxghyuf5qlrko4oecfsk)

[What to Know about the Landmark Opioid Trial Starting Monday, Jan Hoffman, The New York Times, Oct. 20, 2019](https://duke.box.com/s/rjdc6jyot52oi7s0kys48hik3v937w6k)

[37 State AGs accuse CenturyLink of 'weaponizing' class settlement to evade AG suit, Alison Frankel, Reuters, Nov. 26 2019](https://duke.box.com/s/vlpf5fenkrmpxe9zzj55lashwsslpv1n)

[Payout From a National Opioids Settlement Won’t Be as Big as Hoped, Jan Hoffman, The New York Times, Feb. 17, 2020](https://duke.box.com/s/qf3p76a3dfk3m7xiv8cp243t45slphf4)

**SESSION 3: The First Six Months of an MDL** - Court organization and responsibilities of court officers, e.g., magistrate judge, clerk of court, and court-appointed special masters on discovery or settlement; appointing leadership; collaboration and meet and confers; use of census data; census for leaders; plaintiff profile forms and fact sheets

[Docetaxel PTO No. 85 for PTO No. 71A & Priv Log Deficiencies of Non-Bellwether Plaintiffs Nov. 13, 2018](https://duke.box.com/s/rqvchoxo4ody7v7k1k9vbl548nn2ea3m)

[FXG Initial Scheduling Order Nov. 15, 2005](https://duke.box.com/s/z1lygzvij7jhqa2n8hvcehat4ebxr7j4)

[Hill's Pet Nutrition Preliminary Practice And Procedure Order June 7, 2019](https://duke.box.com/s/1rdkbvr1zbepvnesoe1cz9wivegaqoeg)

[Incretin Mimetics (Byetta) Order Granting Motion for Order Implementing PFS June 17, 2013](https://duke.box.com/s/dwsyz5m80yj85hfsuyaus2k2roabroqv)

[Incretin Mimetics (Byetta) Order appointing PSC Oct. 21, 2013](https://duke.box.com/s/h10uyqcq654jltzg7luqc9ue5u827o3r)

[Incretin Mimetics (Byetta) Order Governing Filing of Master Complaint Dec. 2, 2013](https://duke.box.com/s/quxy32ntnvviufrxr0nh08ia9as5ggvu)

[Incretin Mimetics (Byetta) Initial Scheduling Order re General Causation Feb. 18, 2014](https://duke.box.com/s/ggi3031o59c1j3m9tsfp8ua4rqw3ymb3)

[Incretin Mimetics (Byetta) CMO Establishing Common Benefit Fee & Expense Fund Aug. 26, 2014](https://duke.box.com/s/5g4idldb3duqbwow1ka286anlmsw8y69)

[INVK CMO No. 6 Common Benefit Fee and Expense Funds Mar. 21, 2017](https://duke.box.com/s/ps8gjvk1klifu7fnws31h7udhfkusli3)

[INVK Amended CMO No. 6 Common Benefit Fee and Expense Funds Jan. 23, 2018](https://duke.box.com/s/kcrpfg2bovev197b9rt3gb3ozalj89pw)

[Lipitor Amended CMO No. 6 May 22, 2014](https://duke.box.com/s/xg8zajqqjlg4hy41k367tcxb4luf65xg)

[Lipitor CMO No. 6B Amendment to CMO No. 6 May 29, 2014](https://duke.box.com/s/ssu7jmpi8ct6jttgiyjmtmpud69kfvyd)

[Pacquiao-Mayweather Order Appointing Lead and Liaison Counsel Dec. 11, 2015](https://duke.box.com/s/zy930ck6vumtkgq9zsywuwls1cqk3dsl)

[Pacquiao-Mayweather Order Accepting the Filing of Consolidated Complaints and Scheduling Order July 7, 2016](https://duke.box.com/s/vhcrfj79ihvwfjlf712wm5d32tulpqvf)

[PPI CMO No. 33 Selection of Bellwether Discovery and Trial Cases Nov. 20, 2019](https://duke.box.com/s/giqt56t3xketthupaok0f3yjaiwkhnsh)

[PPI CMO No. 35 Scheduling Order Bellwether July 1, 2019](https://duke.box.com/s/vas5y7436a95ptsv689xliw8kpo6wtlw)

[PPI CMO No. 36 Amended Scheduling Order Jan. 24, 2020](https://duke.box.com/s/kei63sn1a6yxvuqm48chrp8pang1frqn)

[PPI CMO No. 9 PFS (2 Stages) Feb. 5, 2018](https://duke.box.com/s/5jgx5u0v8nvjg5ohjfrxdev7h5mh7hmt)

[Skechers Order Establishing Plaintiffs' Fact Sheet Motion and PFS May 3, 2012](https://duke.box.com/s/bntio7atkjdm12xkb30xlcxjps60tyle)

[Skechers Order re Early Mediation and Case Selection May 3, 2012](https://duke.box.com/s/v6apmn2dxxyh5ji398436j9iffjg86y8)

[Skechers PPO No. 2 Service and Direct Filing May 3, 2012](https://duke.box.com/s/bntio7atkjdm12xkb30xlcxjps60tyle)

[Skechers PPO No. 3 Practice and Procedures - General May 3, 2012](https://duke.box.com/s/rmz9l1i1o798puv2qprkrlrwrxwq9x8v)

[Skechers PPO No. 6 Common Benefit Fund May 3, 2012](https://duke.box.com/s/srb63j3zr9rmcq17hptapx7ipkbxxtar)

[Skechers PPO No. 7 Expenses May 3, 2012](https://duke.box.com/s/cjkrvkxo949y2jeifoivcdppporpjpss)

[Skechers PPO No. 8 Tolling Agreement May 3, 2012](https://duke.box.com/s/t351kpqzcmsfbzn6rxfttkh0879zu49b)

[Skechers Protective Order May 3, 2012](https://duke.box.com/s/8zq8xujdf3z68bedr8qv7pomrtvgacng)

[Skechers Scheduling Order No. 1 May 3, 2012](https://duke.box.com/s/z7eu8s83ia4e4rwrsda9xxsd3htir2fr)

[Vioxx PTO No. 6 PSC Leadership Order Apr. 8, 2005](https://duke.box.com/s/nwwvblvc7imble4a9r59x3ij2953ygp4)

[Zoloft PTO No. 15 Joint Discovery & Scheduling Plan Nov. 16, 2012](https://duke.box.com/s/i1vdejebz33lx3qv37fk6eu0vtgt2k1t)

[Zoloft PTO No. 20 Amending PTO No. 15 re Joint Discovery & Scheduling Plan Feb. 25, 2013](https://duke.box.com/s/472qumo4tt05d1lw8acyhy3opyq4fu0d)

[Zoloft PTO No. 23 Amending PTOs 15 & 20 re Joint Discovery & Scheduling Plan Apr. 1, 2013](https://duke.box.com/s/oidk2wa61pl58pzpivqvfm2o4cw92560)

**SESSION 4: Case Management – Breakout Sessions** - Role of court in organizing attorneys: appointment of lead counsel, PSC, and other executive committees; managing MDL, including court order governing ongoing timekeeping and limits on expenses; judicial trends in appointing specific types of lawyers to leadership positions

[Duties of Appointed Counsel 64 Loyola Law Review 1 (Spring 2018)](https://duke.box.com/s/etv1phvgqgfnnib4kgjlkk75bnpfbc82)

Plaintiff focus: Managing MDL and conferring with individual plaintiffs: appointment of PSC and executive committees and organization of subcommittees; who assigns lawyers to individual subcommittees, e.g., judge, lead counsel, executive committee; conferring with individual clients and communicating with all plaintiffs when appointed to a leadership position, e.g., disclosure of superior duty to the court and confidentiality limitations

[What Do MDL Leaders Do Evidence from Leadership Appointment Orders David Noll Feb. 2, 2020](https://duke.box.com/s/55j1m1kdox3qvl7rgkoeabtzjajn22gi)

Defense focus: Strategy and management of MDL from General Counsel and outside counsel perspectives; joint defense groups; financial responsibility among multiple parties (trial expenses and settlement); organization of tasks

**SESSION 5: Financing the Litigation** - Financing obligations and cost estimates; direct and third-party financing; risk tolerance; creation and administration of common benefit fund; allocation of expenses among multiple parties

[A bridge too far, An expert panel examines the promise and peril of third-party litigation financing, Judicature, Fall 2019 Vol 103 Num 3](https://duke.box.com/s/fjiubg9n6182675bt5pkxvlihchsh236)

[New York City Bar Association - Working Group on Litigation Funding Report Feb. 28, 2020](https://duke.box.com/s/8wo1xa59gv5ziubpg7lwqv43htgmarrx)

[Opioids Order re 3rd Party Lit Financing May 7, 2018](https://duke.box.com/s/8bs60i00mty72naqkfl2id285wsz1by1)

**SESSION 6: Briefing on Legal Issues** - Project management — coordinate research and drafting of all pleadings and motions, e.g., plaintiff and defendant fact sheets, motions in limine, evidentiary motions; oral argument preparation; appellate briefing; choice of law

**SESSION 7: Case-Management Order** - Scope of order and detailed procedural roadmap; Master Pleadings; time and expense reporting

[Chinese Drywall PTO No. 1 Setting Initial Conference June 16, 2009](https://duke.box.com/s/e90cmo4074v19txdo3xf88huq3urhkne)

[Chinese Drywall Order and Reasons Common Benefit Fees Jan. 10, 2020](https://duke.box.com/s/zbw1srwg60f0xuapk2fp9i7ij8kv2ew2)

[Dicamba Herbicides CMO Crop Damage June 29, 2018](https://duke.box.com/s/8dqv5domtnviv2dnf970tt8zy28rra8a)

[J&J Talcum CMO No. 1 Dec. 6, 2016](https://duke.box.com/s/i96mggbmu3vmbi43tlbo1mldhbqbfwxw)

[Juul CMO No. 2 Initial Case Census Nov. 19, 2019](https://duke.box.com/s/30ykt4c76fqm2noq4xhewj7fu1x65idp)

[Opioids CMO No. 1 Apr. 11, 2018](https://duke.box.com/s/j668t6ufgxx44hb0b540k159iri5aqi3)

[Roundup PTO No. 3 Nov. 23, 2016](https://duke.box.com/s/mp1pliyc2rab38vhzpafd66z51f7y462)

[Roundup PTO No. 9 Feb. 2, 2017](https://duke.box.com/s/tt5nt3lb99yi1w5q2ihdp02yxon0dmu4)

[Taxotere PTO No. 65 Procedure for Severance of Multi-Plaintiff Cases Oct. 16, 2017](https://duke.box.com/s/hma2o5b6nolbsb7nlh3bcgmcdoel50zt)

[Taxotere CMO No. 12 Product ID Order Jan. 12, 2018](https://duke.box.com/s/ltbsy2qohxz9pew2un1buxfmibswknkd)

[TRT CMO No. 20 Master Pleadings Mar. 29, 2017](https://duke.box.com/s/bhznlngwiq741mnj1bjzobyzhu9bheuh)

[TRT CMO No. 9 Plaintiff Fact Sheets and Records Authorization May 20, 2018](https://duke.box.com/s/eeblaz31l0gnzg0pfy9kjmbfz20po0c1)

[Viagra PTO No. 5 Procedures for Direct Filing, Master Pleadings, and Service of Process Aug. 10, 2016](https://duke.box.com/s/ou8oh589w0bwr3upevdcv2nyjseo30lq)

[Xarelto PTO No. 1 Setting Initial Conference Dec. 17, 2014](https://duke.box.com/s/ksbvop0g0jkucyhl7educ5mnscikf9hv)

[Xarelto PTO No. 11 Bundling of Complaints and Answers May 4, 2015](https://duke.box.com/s/hyhj6587lppdpnwe2oeu73mp8gitp3n9)

[Zofran Order No. 11 PFS, Initial Production of Documents by Plaintiffs, Execution of Authorization May 26, 2016](https://duke.box.com/s/uo2e4qs6tyriov8na043yovztognuv39)

[Zofran Order No. 14 Order Concerning Master Pleadings May 18, 2016](https://duke.box.com/s/9fdmjlr3l1gpzlorwu472izgyq4jvzed)

[Zoloft PTO No. 15 Joint Discovery and Scheduling Plan Nov. 16, 2012](https://duke.box.com/s/rgotdcfv0ap6va3vlid1i3lxqnfsxux0)

**SESSION 8: Document Review and Privilege Logs** - Institution and monitoring of litigation hold; vendor selection and review; ESI protocol negotiations; selection of custodian list; discovery negotiations; document review; discovery log; responding to document, interrogatories, and admissions requests of plaintiffs; review of privilege logs; transparency issues; confidentiality

[3M PTO No. 12 TAR Protocol July 1, 2019](https://duke.box.com/s/dc42bg2drbkj0o5urssg117rijpti4mc)

[Docetaxel PTO No. 71A Plaintiffs Responsibilities Relevant to ESI Jan. 26, 2018](https://duke.box.com/s/jjh0f62c5n36tt2pr2sqo4dafig5bxzs)

[Intel PTO No. 4 Protocol for Document Collection and Production Oct. 18, 2018](https://duke.box.com/s/p96ewaqub42awua0ki8utzgldwrp4hbp)

[Opioids Discovery Ruling No. 2 June 30, 2018](https://duke.box.com/s/h2plev83qctm3s6yfyl5j4subjc24dnp)

[Opioids Discovery Ruling No. 3 July 17, 2018](https://duke.box.com/s/esk88jzf0pdnehjdnstxfsotdnbyn4bv)

[Opioids Pharmacy Defendants' Objections to Discovery Rulings No. 2 and No. 3 July 24, 2018](https://duke.box.com/s/eum89gzmhizy832zcwsjoi440774resi)

[Opioids Manufacturer Defendants' Joint Objections to the Special Master's Discovery Rulings Nos. 2 and 3 July 24, 2018](https://duke.box.com/s/ltbsvqe3bzhe5uum06qz54xib6xorjfg)

[Opioids Order re Disc. Ruling Nos. 2 & 3 Aug. 8, 2018](https://duke.box.com/s/h9fxgnw9wmvap0q66g01whc8j5xhkcby)

[Skechers Discovery Order No. 1 General May 3, 2012](https://duke.box.com/s/wgnhx2rxkbwrpgqfl1o24whu6uovyx64)

[Skechers Discovery Order No. 2 ESI May 3, 2012](https://duke.box.com/s/pufjtbkmpiumhcersi6dmz35xzp2eudi)

[Skechers PPO No. 5 Preservation of Records May 3, 2012](https://duke.box.com/s/ahiwdxctmvi2fe0lggmckjeqdftzg47x)

[TRT CMO No. 15 Protocol for ESI Nov. 6, 2014](https://duke.box.com/s/lg2503vw0p9vuk9wyyqksex8ieklywre)

**SESSION 9: Fact Discovery -** Identifying fact witnesses to depose; preparing outlines for depositions; deposing witnesses

[Skechers PPO No. 4 Depositions May 3, 2012](https://duke.box.com/s/6iddcl55ccepqiu07sekmkcm1uzpmvjl)

[Zoloft R&R No. 2 re ex parte Contacts with Witnesses and Deposition Protocols June 13, 2013](https://duke.box.com/s/295srddf1zxamivhwhy16048y7rjyask)

**SESSION 10: Expert Discovery** - Researching and retaining experts; overseeing preparation of expert disclosures; deposing expert witnesses

[3M PTO No. 18 Initial Census Requirement, Oct. 22, 2019](https://duke.box.com/s/q9zhkwh17o8z1iykvksmj8tq1ikuo840)

[Docetaxel PTO No. 70B Contact with Physicians Nov. 13, 2018](https://duke.box.com/s/e6xo8m1e8rvudh0ei12uckss1f00y361)

[Opioids Order Establishing Deposition Protocol June 20, 2018](https://duke.box.com/s/cxhn94htd7n6ogq8kyqd8l2fwxcttcio)

[Opioids CMO Discovery and Trial Preparation Sept. 5, 2018](https://duke.box.com/s/kiqbvm21p4csdhc2082kipsze289uxjw)

[Opioids Order Expert Witness Disclosure Jan. 6, 2020](https://duke.box.com/s/oby3qqpir9zrxb8sodcurm0hl1ehgdjp)

**SESSION 11: Settlement** - Timing; role of judge; use of mediators; project management, e.g., negotiations, principal players; remand

[The What and Why of Claims Resolution Facilities, Francis McGovern, 57 Stanford Law Review 1361-1389, 2005](https://duke.box.com/s/1v0s1gzxhv3igxyzaq64x5glqthwc1od)

[Opioids Memorandum Opinion Certifying Negotiation Class, Sept. 11, 2019](https://duke.box.com/s/jmz8laa2ww8bd7qjc353c23uc1t5q44o)

**SESSION 13: Trial Preparation** - Bellwether issues; expert consulting; review of trial candidates recommended by law firms

[Judge Childs 2019 Year End MDL Statistics](https://duke.box.com/s/o58no5bvgfhlmnwb2ob92fzzg6w0ctpz)

[Docetaxel CMO No. 14C Amendments to Trial Pool Selection Apr. 23, 2019](https://duke.box.com/s/lzrfj69to8y8d364r2w396ft25ii6kg8)

[Zoloft PTO No. 44 Trial Pool Selection Protocol Dec. 4, 2013](https://duke.box.com/s/ga5dmkurg0hzi1wmkjivipfpet86u6f7)

**SESSION 14: Post-Trial Payouts** - Common benefit fund; class-action settlement funds; individual client payments; distribution process: use of claims administrators and other experts; criteria for disbursements; continuing responsibilities, lien reconciliation; attorney fees

[Xarelto PTO No. 8 Post trial Payouts Feb. 13, 2015](https://duke.box.com/s/hferpiv5t8ugt2wy5zxu4ykb4i1etrin)

[Chinese Drywall Order and Reasons - Final Approval Jan. 10, 2020](https://duke.box.com/s/ctoucgayf971yrpb84gj7ksy3l28knpf)

**SESSION 15: Unique Aspects of MDLs** - E.g., class actions; parallel state court litigation

[James G. Apple, Paula L. Hannaford, & G. Thomas Munsterman, Manual for Cooperation Between State and Federal Courts (1997), (pp. 15-34, 48-54, 129-49)](https://duke.box.com/s/nfw4yq3ebxvghs5jc8m3s6m9usaxk6cq)

[Eldon E. Fallon, Jeremy T. Grabill & Robert Pitard Wynne, Bellwether Trials in Multidistrict Litigation, 82 Tul. L. Rev. 2323 (2008), passim](https://duke.box.com/s/wlb8oc71zh6vuy7dmxzwzr406tcvp3yp)

[Federal Judicial Center, National Center for State Courts, & Judicial Panel on Multidistrict Litigation, *Coordinating Multijurisdiction Litigation: A Pocket Guide for Judges* (2013), (pp. 1-6, 8-13)](https://duke.box.com/s/gxfw210182n3lxpdulr3r3kvv0ggugn3)

[Paula L. Hannaford-Agor, Comment: Federal MCL Fourth and Suggestions for State Court Management of Mass Litigation (National Center for State Courts 2006), passim](https://duke.box.com/s/05a6gqfv51a5yc95eccsv7u3yys4a3f1)

[Judicial Panel on Multidistrict Litigation & Federal Judicial Center, Ten Steps to Better Case Management: A Guide for Multidistrict Litigation Transferee Judges (2d ed. 2014), at 1, 3-10](https://duke.box.com/s/am7gu3ykc3buzz3d6zi77pmt2yj977jw)

[Catherine R. Borden, Managing Related Proposed Class Actions in Multidistrict Litigation, FJC Pocket Guide, 2018, citing Manual for Complex Litigation, Fourth § 21.11 and 21.27 (2004) (pp. 6-8, 10-11)](https://duke.box.com/s/qmie1jeylyne925mz14m5tv09xn22grr)

**SESSION 16: Advanced Certificate Small Group Sessions** - for Advanced Certificate Attendees Only - Discuss hypothetical MDL scenarios (max 12 per group) and assignment due in 8 weeks

[Vioxx Order and Reasons Aug. 14, 2007](https://duke.box.com/s/7adnp61vcp2bsscnvv0o8zbgpq6fh0y7)

[Fairlife Order Appointing Interim Class Counsel Jan. 22, 2020](https://duke.box.com/s/ldphrumwjnm7o4ccg2amk51h1w4l1h14)