Advantages and disadvantages of centralization
- Possibility of global resolution
- Transactional cost savings
- Strategic consideration of delaying resolution and payment of relief, e.g., resolution of mass-tort MDLs increasing to 8-10 years
- Concern with attracting unwarranted filings
- Informing wider public of opportunity to file actions by TV and internet advertisers

Timing of motion to centralize
- After 5-20 cases, e.g., filed in courts; when to file centralization motion—how far along should individual cases proceed before filing centralization motion; when are motions premature
- Who files and what are benefits of being the motion filer
- Contents and length of briefs supporting motion to centralize
- When to refile if initially denied; who decides; role and influence of repeat players
- Filing fees; individual or joint/consolidated filings

Coordination with other lawyers moving or opposing centralization
- Does filer of motion consult with others
- Role and influence of repeat players
- How are initial discussions orchestrated; who starts and leads

Centralization approval
- JPML hearings held bi-monthly
- Judge Heyburn’s criteria
- Reading the tea leaves from JPML’s last five mass-tort MDL orders
- Unofficial business conducted at hearing; role of repeat players

Recommending specific district and judge
- How much coordination among plaintiff lawyers; repeat players’ role
- Defense strategy in avoiding judges perceived to be unfriendly
- JPML history appointing “new” transferee judges

Consideration of state-court MDLs
- Examples
- Plaintiff and defense advantages, disadvantages
STEERING COMMITTEE APPOINTMENT PROCESS

- Slate or individual application
  - Advantages of slate, ensuring collegiality
    - What should be highlighted in slate application
  - Advantages of individual application
    - What should be highlighted in individual application
    - Support of law firm
- Inclusivity considerations
  - Recognition of judiciary’s concerns that appointments be inclusive
- Financial commitment
  - Negotiating mandatory contributions from PSC to common expense fund and allocating payments in preliminary discussions
  - How much money is needed upfront to be in leadership role on PSC, other committees as member or chairs
  - Payments monthly
  - Recovery of payments; timing
- Sources of Funding
  - Line of credit from bank
  - Law firm provides funding
  - Third-party financing
    - Disclosure requirements
- Coordination with other firms and lawyers
  - Slate applications
    - Role of repeat players
    - Who orchestrates initial meetings; role of lawyers with large inventories
- Executive and other committee appointments; who appoints
  - Financial remuneration for service on committee; timing
- Lead counsel appointments
  - Strategy in amassing large inventories of filed actions to better position themselves in a leadership role
  - Financial wherewithal
  - Multiple appointments in other MDLs
  - New blood
Friday, February 25
9:00 am 12:00 pm

COMMON BENEFIT FUND

- Developing appropriate percentage
  - Purpose of fund
  - Lead counsel or PSC proposes the percentage
  - Percentage based on comparables; other criteria
  - Fixed or fluid percentage; timing

- Identifying common benefit responsibilities subject to remuneration
  - Based on experiences with other mass-tort MDLs
  - Who enumerates responsibilities, case management order, PSC, or lead counsel
  - Who assigns responsibilities, lead counsel, PSC, or case management order

- Timekeeping reports
  - Who develops reports
  - Who monitors reports and approves submitted compensation requests
  - When are payments distributed

- Assessing state lawyers a fee in parallel state court cases
  - Who prepares agreement with state court counsel sharing discovery produced in MDL subject to the agreement
  - Consideration of discovery made by state court counsel
  - How are state court counsel advised of the agreement
  - Federal and state court approval