

## MDL Management Topics Seminar

Virtual Zoom October 23, 2020 11:05 AM to 12:05 PM EASTERN TIME

### A. Topics

#### 1. **Special Master, Magistrate or Article III Judge, when do you use who, and how do you ensure good cost/benefit?**

In a mass case, the Judge usually sets the standards on the duties of the Magistrate or the Special Master. Special Masters are governed by Rule 53 while Magistrates are governed by the Magistrates Act, which lists more specifically the limited roles that a Magistrate may fill. Special Masters are usually able to perform more functions more quickly and informally. Transparency is the key to ensuring good cost/benefit. A budget is recommended and “speaking bills”, describing what the Special Master did for the bill being submitted, is growing in acceptance. The Court sets the rate or fee of the Special Master, as well as deciding what Party or Parties pay it. Up front fee resolution is recommended. Finality is also favored by the use of Special Masters, with the Parties being able to specify that his/her decision cannot be appealed, unlike the decision of a Magistrate Judge or a Federal Judge.

Use of Special Masters in Connection with Class Proceedings, F.A. Little, Jr. and Ed Gentle, Chapter 33 ABA

#### 2. **Early Vetting in Mass Cases: Pros and Cons**

Is a Plaintiff Factsheet (“PFS”) sufficient? Does early vetting prevent meritless cases from clogging the docket, interfering with the selection of cases for trial and preclude meaningful motion practice and settlement discussions? How far should early vetting go? When does early vetting deprive legitimate Plaintiffs of a meaningful remedy?

Managing MDL Mania: A Modest Early Vetting Proposal, Alan Rothman, Arnold & Porter (October 16, 2019)

#### 3. **MDL Insider Dealing: Problems and Solutions**

Is there a systemic lack of checks and balances in our Courts that benefits individual lawyers over plaintiffs? Should we reject consensus lawyer leadership slates, and empower a cognitively diverse group, and designate attorneys representing differently situated clients to advocate for them and those like them? Should quantum meruit principles govern the award of legal fees to provide an ethical check? Should the incentives be rearranged from the insiders’ self-interest to the public interest and the plaintiffs’ interests?

Mass Tort Deals, Elizabeth Chamblee Burch (Cambridge U. Press 2019)

B. Panelists

The Honorable R. David Proctor  
U.S. District Judge for the Northern District of Alabama

Professor Beth Burch  
Fuller Callaway Chair of Law at the University of Georgia, Athens

Chris Hellums, Esq.  
Managing Partner, Pittman, Dutton & Hellums, Birmingham

Anand Agneshwar, Esq. and Paige Sharpe, Esq.  
Partners, Arnold & Porter, New York

Moderator Ed Gentle  
Founding Partner, Gentle, Turner, Sexton & Harbison, LLC, Birmingham