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As BP Suits Take Off, a Hard Look at the 'MDL' Process

The litigation stemming from the BP oil spill will use a complex legal structure common to mass-torts called multidistrict litigation, or "MDL" for the kids in the know.

In Monday's WSJ, Dionne Searcey takes a hard look at the MDL process, which has been used in thousands of suits across the U.S. in a bunch of huge personal injury and product liability cases — from harmful diet drugs to smelly Chinese drywall.

The idea behind the MDL, writes Searcey, is to roll numerous suits of similar nature filed in U.S. district courts into one case before one judge, for efficiency's sake.

Critics of the consolidation say these cases become so unwieldy they sometimes drag on for years. The critics point to asbestos litigation filed in the 1980s that has yet to be resolved or the civil case tied to claims from the 2001 terrorist attacks on the World Trade Center, which is still in its initial stages.

"They're a defense lawyer's dream," said Texas plaintiffs' lawyer Lisa Blue. "You get to charge the client a lot more."

And they say outcomes are usually a one-size-fits-all settlement for hundreds or even thousands of plaintiffs. Also, defendants end up with huge hourly legal bills.

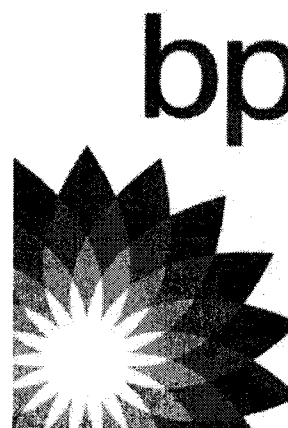
Still, many lawyers agree the multidistrict litigation process has benefits. Attorneys can share depositions and evidence gathering to cut costs and save time.

"It prevents the version of the movie Groundhog Day where an attorney wakes up in the morning in a different court and does the same thing that he or she did in another court," said Skadden's John Beisner. "We would have an enormous waste of resources if this process wasn't available."

For plaintiffs' attorneys the streamlining can be brutal. Take, for instance, the case of Eileen Baril and Accutane. In 2003, she sued the maker of the acne drug after developing stomach problems described by hundreds of other users.

Before long, her federal suit in Louisiana was folded into a dozen others as part of a multidistrict case. The case languished for six years until a judge dismissed it over an issue with an expert witness before it could go to trial.

Since then other users of the drug, Accutane, have reaped major court awards. Their cases were filed in state courts.



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