A Separate Track for Firefighter Turnout Gear: MDL3191's Implications on PFAS Defendants

By Katharine S. Perry | Brian D. Gross

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Federal litigation concerning PFAS in firefighter turnout gear has entered a new phase with the creation of a dedicated multidistrict litigation in Minnesota.

On August 18, 2026, the United States Judicial Panel on Multidistrict Litigation (JPML or Panel) established MDL No. 3191, formally titled *In re: Non-AFFF Firefighter Turnout Gear Marketing, Sales Practices, and Products Liability Litigation*. The JPML assigned the proceeding to Judge Jeffrey M. Bryan of the US District Court for the District of Minnesota. These centralized cases involve purchaser class actions seeking economic loss damages, not personal-injury claims. Current plaintiffs include municipalities, fire departments, and other purchasers that allege they bought per- and polyfluoroalkyl substances (PFAS)-containing turnout gear without adequate disclosure.

PFAS are a class of manmade chemicals that contain strong carbon-fluorine bonds. Those bonds do not break down easily in the environment or in the human body. Turnout gear is the protective clothing and equipment firefighters wear during emergency response, including coats, pants, helmets, gloves, boots, and multilayer barriers.

Separating Turnout Gear and AFFF Litigation

MDL 3191 is not the first multidistrict litigation involving PFAS and firefighting products. Notably, MDL No. 2873, *In re: Aqueous Film-Forming Foams Products Liability Litigation* (AFFF MDL), was established in 2018 and is overseen by Judge Richard M. Gergel in the United States District Court for the District of South Carolina. MDL 2873 coordinates claims arising from the manufacture, use, and disposal of PFAS-containing firefighting foam, commonly known as AFFF. Litigation centralized under MDL 2873 includes claims by public water systems seeking costs associated with the investigation and remediation of alleged PFAS contamination, personal-injury claims by firefighters and others who allege illnesses related to AFFF exposure, as well as landowners and State Attorneys General, who seek damages for the investigation and remediation of alleged PFAS-contaminated property and, in the case of the State Attorneys General, natural resource damages.

MDL 3191, by contrast, focuses on PFAS allegedly incorporated into the textile fibers of firefighter turnout gear. While several parties had requested that the JPML transfer all turnout-gear cases to Judge Gergel under the existing AFFF MDL, the JPML declined those requests, emphasizing that turnout-gear-only claims do not involve the manufacture, use, or disposal of AFFF and therefore fall outside the scope of MDL 2873. The Panel further noted that all turnout-gear cases previously transferred into the AFFF MDL also included AFFF-related allegations, reinforcing the need for a separate consolidation dedicated to non-AFFF claims. The Panel, in establishing MDL 3191, also cited the need to avoid adding to an AFFF docket that already included more than 15,000 pending actions. New cases alleging exposure to both AFFF and turnout gear may, however, remain in MDL 2873, with the two transferee courts coordinating overlapping discovery where appropriate.

Common Allegations, Distinct Defenses

As a result of the Panel's centralization decision, turnout-gear related defendants may coordinate discovery, expert

development, corporate testimony, and pretrial motions before a single court, thereby promoting consistency with pretrial rulings. Centralization does not, however, make allegations against various producers, suppliers, and manufacturers interchangeable. Rather, each defendant may have played a different role in designing, manufacturing, marketing, or selling the gear at issue.

Further, a central defense issue will be whether the purchase of usable gear that ultimately performed its intended protective function presents a viable economic injury. Plaintiffs are likely to argue that they overpaid for the gear, or that they must replace it, because its PFAS content and alleged risks were not adequately disclosed. Meanwhile, defendants may respond that the gear provided the protection for which it was purchased and that anticipated replacement costs are speculative or unrelated to any product failure. Accordingly, municipal procurement records, such as bid specifications, purchase orders, warranties, product literature, and replacement schedules will be critical in evaluating those competing positions because they may establish what each purchaser requested; what information it received; and, whether the alleged representations affected its purchasing decision.

Defendants will also need to distinguish between different PFAS chemicals, product components, manufacturing periods, testing methods, and concentrations allegedly detected in the gear, because treating PFAS as a single substance could obscure material differences in product design, exposure evidence, and each defendant's knowledge or conduct. Applicable safety standards, as well as any information available when particular products were sold, may further inform defect, warning, feasibility, and state-of-the-art defenses. Meanwhile, contract terms, warranty limitations, statutes of limitation, and the economic-loss doctrine may provide additional grounds for narrowing claims or damages.

Looking ahead

While these strategies remain familiar features throughout modern products liability litigation, where allegations against multiple defendants within a products' chain remain commonplace, Judge Bryan's early decisions concerning pleadings, discovery, product testing, and motion sequencing will largely determine when and how defenses should be addressed within the new forum. Ultimately, defense teams will need to take advantage of the efficiencies provided by centralization while ensuring that consolidation does not erase meaningful differences among products, purchasers, transactions, and supply-chain participants. Moving forward, preserving these distinctions will be essential to keeping MDL 3191 within the focused boundaries intended by the JPML.

MG+M Law Clerk Dylan Sheely is a contributing author of this article.

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