



**IN THE CIRCUIT COURT OF  
KANAWHA COUNTY, WEST VIRGINIA**

**IN RE: OPIOID LITIGATION**

**Civil Action No. 19-C-9000**

**THIS DOCUMENT APPLIES TO ALL CASES**

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**STIPULATION AND CONSENT TO BENCH TRIAL**

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The County, City, and Hospital Plaintiffs in this action, and in all cases currently pending transfer to this action (collectively hereinafter “Plaintiffs”) and the undersigned signatory Defendants (collectively hereinafter the “Undersigned Defendants”) hereby **AGREE** and **STIPULATE** as follows in the above referenced matter Civil Action No. 19-C-9000 pending before the Mass Litigation Panel (hereinafter “MLP”):

1. If there is to be a trial or separate trial phases on Plaintiffs’ public nuisance claims, the Undersigned Defendants consent to a non-jury trial. This includes but is not limited to the first trial phase as set forth in the MLP’s February 19, 2020 Order and each and every trial phase thereafter. To the extent the Undersigned Defendants possess a right to a trial by jury on said claims (including, but not limited to, a Seventh Amendment right under the United States Constitution, an Article III right under the West Virginia Constitution, or under any other source of law), the Undersigned Defendants waive such rights and consent to a non-jury trial. The Undersigned Defendants do not waive any other legal arguments and do not waive any defenses to Plaintiffs’ claims.
2. If there is to be a trial or separate trial phases on Plaintiffs’ public nuisance claims, Plaintiffs and the Undersigned Defendants stipulate to a non-jury trial on all issues and claims, and for all trial phases as determined in the MLP’s sole discretion.
3. Plaintiffs agree to dismiss with prejudice all claims and actions against the Undersigned Defendants in the MLP other than public nuisance claims and will only assert public nuisance claims against the Undersigned Defendants. It is expressly understood and agreed that Plaintiffs are not dismissing or waiving any right to seek joint and several liability of the Undersigned Defendants under any applicable statute or law, including, but not limited to, W.Va. Code § 55-7-13c, West Virginia law governing civil conspiracy, and/or equity.
4. The County and City Plaintiffs agree not to seek past economic damages in the MLP. The County and City Plaintiffs will seek all recoveries, remedies, and damages other than past economic damages permitted by law and nothing in this Stipulation and

**So Ordered** Judge Moats, Alan D May 01, 2020

Consent shall affect their right to seek any and all recoveries, remedies, and damages other than past economic damages. The Undersigned Defendants reserve all rights to contest any of Plaintiffs' claims for abatement or economic damages, and reserve their position that Plaintiffs are seeking a damages remedy through their claims for abatement and public nuisance and cannot properly recover such a damages remedy.

5. Plaintiffs also agree to dismiss with prejudice their claims against the Undersigned Defendants for punitive damages.
6. Each Undersigned Defendant stipulates and agrees that it will not, for any reason, remove, attempt to remove, or consent to the removal of any civil action currently pending before the MLP to Federal Court.
7. If all defendants in the MLP agree to this Stipulation, then Plaintiffs agree that they will dismiss with prejudice all individual natural persons named as Defendants.

**SIGNATORY DEFENDANT MCKESSON CORPORATION:**

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*Brooke County Commission, et al. v. Purdue Pharma L.P., et al., Marshall County Civil Action Nos. 17-C-248 to 17-C-255,*

*Monongalia County Commission, et al. v. Purdue Pharma L.P., et al., Marshall County Civil Action Nos. 18-C-222 & 18-C-233 to 18-C-236*

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*Of counsel for Plaintiffs in:*

*West Virginia University Hospitals, Inc., et al. v. Purdue Pharma L.P., et al.*, Civil Action Nos. 19-C-69 to 19-C-88; and 19-C-134 to 19-C-139

*West Virginia University Hospitals, Inc., et al. v. McKesson Corporation, et al.*, Civil Action Nos. 19-C-215 to 19-C-239

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*The County Commission of Mason County, et al. v. Purdue Pharma L.P., et al.*, Marshall County Civil Action Nos. 19-C-4 to 19-C-9

*Mayor Peggy Knotts Barney, on Behalf of City of Grafton, and Mayor Philip Bowers, on Behalf of City of Philippi v. Purdue Pharma, L.P., et al.*, Civil Action Nos. 19-C-151 and 19-C-152

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*Of Counsel for Plaintiffs in:*

*City of Clarksburg, West Virginia., v. Allergan  
PLC, et al., Civil Action Nos. 19-C-259 to 19-C-  
265*

**IN THE CIRCUIT COURT OF  
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**Certificate of Service**

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The undersigned counsel hereby certifies that on this **28<sup>th</sup> day of April 2020**, the foregoing ***Stipulation and Consent to Bench Trial*** was served using the File & Serve Xpress system, which will send notification of such filing to all counsel of record.

*/s/ Timothy R. Linkous*

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