



**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**

**ORDER ON DEFENDANTS' EXPEDITED MOTION FOR  
PROTECTIVE ORDER REGARDING EARLY TRIAL  
PRESERVATION DEPOSITION OF DR. RAHUL GUPTA**

This matter comes before the Discovery Commissioner on *Defendants' Expedited Motion for Protective Order Regarding Early Trial Preservation Deposition of Dr. Rahul Gupta* (Transaction ID 66901952) ("Motion"). Defendants seek a protective order prohibiting Plaintiffs from taking the deposition of Dr. Rahul Gupta until fact discovery is complete. Dr. Gupta has been nominated to a federal position, and Plaintiffs assert that if he is confirmed he will be unavailable to testify in this litigation. They therefore propose to take a trial preservation deposition of Dr. Gupta on September 23 and 24, 2021. Defendants contend that the proposed deposition is premature.

The Discovery Commissioner, having reviewed the parties' briefs and considered the arguments put forth in the September 7, 2021 telephonic conference, **FINDS** that a trial preservation deposition at this stage of the litigation is appropriate and **ORDERS** that the discovery deposition of Dr. Gupta be conducted on September 17 and 18, 2021, and the trial preservation deposition of Dr. Gupta be conducted on September 23 and 24, 2021. Plaintiffs shall monitor the availability of Dr. Gupta for deposition after September 30, 2021 and advise the Discovery Commissioner and Defendants if such dates become available. This Order is without prejudice to the parties' rights to object to the use or admissibility of any deposition testimony of Dr. Gupta at trial.

A copy of this Order has this day been electronically served on all counsel of record via  
File & Serve*Xpress*.

**Dated:** September 10, 2021.

/s/ Christopher C. Wilkes  
Discovery Commissioner