



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 CONCERNING DISCOVERY RESPONSE AND SERVICE PROTOCOL

On the 31st day of July 2020, the parties served written discovery responses in this matter, *In re: Opioid Litigation*, Kanawha County, West Virginia Circuit Court Civil Action No. 19-C-9000 (“Litigation”). On the 7th day of August 2020, the Discovery Commissioner held a supervised meet and confer among the parties regarding the process of responding to and serving discovery and discovery responses. The purpose of this Order is to set a basic discovery response protocol and clarify the obligations of the parties. In that respect, the Discovery Commissioner **FINDS** and **ORDERS** as follows:

I. Methods of Service

When serving interrogatories, requests for production of documents, requests for admission, written responses and objections thereto, and/or documents and ESI produced therewith (“Discovery Materials”), a party may serve the written discovery requests and written discovery responses via the methods set forth in Rule 5 of the West Virginia Rules of Civil Procedure or via File & ServeXpress pursuant to Paragraph 13 of the Electronic Filing and Service Case Management Order entered on July 2, 2019 (TID 63504553).

Alternatively, a party may serve its Discovery Materials through Liaison Counsel. If a party wishes to serve its Discovery Materials through Liaison Counsel, it shall either (1) transmit its Discovery Materials directly to opposing Liaison Counsel via email with a copy to the party’s

Liaison Counsel or (2) transmit the Discovery Material to its Liaison Counsel who shall then serve, via email, the Discovery Materials on opposing Liaison Counsel, in which case service of the Discovery Materials shall be deemed effective upon transmittal from one Liaison Counsel to the other Liaison Counsel. Liaison Counsel shall, no later than 24 hours of receipt of Discovery Materials served, acknowledge receipt of the same through a reply email.

If a party does not serve Discovery Materials through Liaison Counsel, it shall nonetheless serve a copy of the Discovery Materials upon opposing parties' Liaison Counsel. No other form of service with respect to Discovery Materials shall be effective absent an Order from the Panel or the Discovery Commissioner. To the extent a party has not served opposing parties' Liaison Counsel with Discovery Materials previously served, each such party is hereby **ORDERED** to serve those Discovery Materials in one of the manners set forth herein and in accordance with the provisions set forth herein.

A Party must serve all other parties to the Litigation with Discovery Materials, and service by a Party through one of the manners set forth herein shall be deemed sufficient service of Discovery Materials upon all other parties to the Litigation. The service of Discovery Materials in accordance with this protocol is made without waiver of the rights of any party to assert objections to the service or production of such materials on grounds that are distinct to the particular case(s) in which that party has been named or to make arguments specific to the same. Additionally, the requirements of service set forth herein are not intended to, and do not, broaden the scope of any individual complaint and do not waive the right of any party to object to the treatment of the cases in a collective manner. Nothing herein creates an obligation of a party to place its ESI production in a format different than what the requesting party requested or in a format different than that required by the ESI Protocol. In addition, service provided in accordance

with this protocol does not grant a non-party in a particular case the right to try and enforce, through a motion to compel or otherwise, the obligations of any party in that case.

II. Certificates of Service.

When a party is serving multiple written discovery requests or multiple discovery responses at the same time, that party need only file one (1) certificate of service enumerating each set of discovery and/or discovery responses served. A copy of any certificates of service pertaining to discovery shall also be filed in 19-C-9000 in this Litigation, and they shall indicate that opposing Liaison Counsel was served with the Discovery Materials.

IT IS SO ORDERED.

Entered: August 20th, 2020.

By: **Christopher Wilkes**
Discovery Commissioner