



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 GRANTING MOTION TO EXTEND THE TIME PERIOD TO ASSERT
CROSS-CLAIMS FOR CONTRIBUTION AND/OR IMPLIED INDEMNITY AND DEEM
ANY CROSS-CLAIMS ASSERTED DENIED WITH ALL DEFENSES PRESEVED**

Pending before the Court is *Certain Defendants' Motion to Extend the Time Period to Assert Cross-Claims for Contribution and/or Implied Indemnity and Deem any Cross-Claims Asserted Denied with All Defenses Preserved* (Transaction ID 65663694), which has been fully briefed.¹ Based upon Defendants' agreement not to use subsequent filings of cross-claims for contribution and/or implied indemnity as grounds to seek a continuance², and there being no objection by the Plaintiffs, the Court concludes the relief requested is in the interest of justice and judicial economy, and will not prejudice any party. Therefore, the Motion is **GRANTED**.

The Panel **ORDERS** that, in any case pending before or hereinafter transferred to the Mass Litigation Panel and joined with *In re: Opioid Litigation*, Civil Action No. 19-C-9000 ("the Opioid Litigation"): (a) any cross-claims for contribution and/or implied indemnity need not have been, or need be asserted in an answer; (b) any deadlines to file cross-claims for contribution and/or implied indemnity are hereby stayed until ninety (90) days prior to commencement of the first trial or trial phase held in this matter; (c) prior to expiration of the stay, any cross-claims for contribution and/or implied indemnity may be filed without leave of

¹See Joinders (Transaction IDs 65666261 and 65710355), Plaintiffs' Response (Transaction ID 65692388), and Reply to Plaintiffs' Response (Transaction ID 65711016).

² Defendants have represented to the Court that all current Defendants have agreed they will not use subsequent filings of cross-claims for contribution and/or implied indemnity as grounds to seek a continuance, except Defendant Amneal Pharmaceuticals, Inc. ("API"). Reply, pp. 1-2. Defendants have further represented to the Court that, although API did not join in the Motion, given the pendency of its motion to dismiss for lack of personal jurisdiction in the Hospitals case, three other Amneal Defendants are signatories to the Motion. Reply p. 2, footnote 1.

court; and (d) pursuant to Rule 5(c) of the West Virginia Rules of Civil Procedure, any cross-claims for contribution and/or implied indemnity asserted will be deemed denied and all defenses thereto preserved without the need for filing an answer or response to the cross-claim.³

This Order does not apply to or alter any obligations with respect to filing or responding to cross-claims, other than for contribution and/or implied indemnity. Nor does this Order apply to or alter any obligations with respect to filing or responding to third-party complaints or counterclaims. This Order does not affect or waive the Defendants' contentions or the Plaintiffs' contentions regarding joint and several liability and West Virginia's modified comparative fault standard, W. Va. Code § 55-7-13a through 13d (as amended).

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

It is so **ORDERED**.

ENTERED: August 17, 2020.

/s/ Alan D. Moats
Lead Presiding Judge
Opioid Litigation

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation

³ By this Order, the Court is not granting relief against any defendant who is a debtor in bankruptcy.