



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 RECONVENING MEDIATION ON OCTOBER 15, 2020

Lead Resolution Judge Joanna I. Tabit, Resolution Judge Jay M. Hoke and Resolution Judge Gregory L. Howard will reconvene mediation on at **9:00 a.m. on October 15, 2020**, on the 17th Floor of the Chase Bank Building, located at 707 Virginia Street, East, Charleston, West Virginia 25701.

The Resolution Judges recognize the COVID-19 pandemic has caused travel restrictions to be placed on many parties and counsel who would otherwise participate in mediation in person, so they will be conducting mediation in a “hybrid” fashion, with some individuals required to appear in person and all others required to be available by telephone and/or video conference, as needed during mediation.

If a Required In-Person Participant cannot travel due to constraints caused by the COVID-19 pandemic, the Required In-Person Participant shall file and serve a motion seeking leave to participate in mediation via teleconference or videoconference **no later than October 8, 2020**. The motion shall be served on all counsel of record, Lead Resolution Judge Joanna I. Tabit, Resolution Judge Jay M. Hoke, Resolution Judge Gregory L. Howard, and the Mass Litigation Manager.

REQUIRED IN-PERSON PARTICIPANTS

The following persons are required to participate in mediation **in person**:

Plaintiffs' Liaison Counsel:

Timothy R. Linkous, Esq.
Linkous Law, PLLC
179 Hanalei Drive, Suite 100
Morgantown, West Virginia 26508
Telephone: 304-554-2400
tim@linkouslawpllc.com

Defendants' Liaison Counsel:

John J. Meadows, Esq.
Steptoe & Johnson PLLC
707 Virginia Street, East
P.O. Box 1588
Charleston, WV 25326-1588
Telephone: 304-353-8154
john.meadows@steptoe-johnson.com

Plaintiffs' Lead Coordinating Counsel:

Co-Lead Coordinating Counsel for Cities/Counties:

Hunter J. Shkolnik
Napoli Shkolnik PLLC
360 Lexington Avenue, 11th Floor
New York, New York 10017
Telephone: 212-397-1000
hunter@napolilaw.com

Letitia "Tish" Chafin
The Chafin Law Firm, PLLC
PO Box 1799
Williamson, West Virginia 25661
Telephone: 304-235-2221
tish@thechafinlawfirm.com

Co-Lead Coordinating Counsel for Hospitals:

Don Barrett
Barrett Law Group, P.A.
404 Court Square, North
P.O. Box 927
Lexington, MS 39095
Telephone: 662-834-2488
dbarrett@barrettlawgroup.com

Stephen B. Farmer
Farmer, Cline & Campbell, PLLC
746 Myrtle Road
P.O. Box 3842
Charleston, West Virginia 25338
Telephone: 304-346-599
sbfarmer@fcclaw.net

Lead Coordinating Counsel for the Attorney General:

Vaughn T. Sizemore, Deputy Attorney General
Office of the West Virginia Attorney
General Patrick Morrissey
State Capitol, Building 1, Room E-26
Charleston, WV 25305
Direct: 681-313-4565
Main Office 304-558-2021
Vaughn.T.Sizemore@wvago.gov

Defendants' Lead Coordinating Counsel:

Lead Coordinating Counsel for the Distributor Defendants:

Al Sebok
Jackson Kelly PLLC
500 Lee Street East, Suite 1600
P.O. Box 553
Charleston, WV 25322
Telephone: 304-340-1172
asebok@jacksonkelly.com

Lead Coordinating Counsel for the Manufacturer Defendants:

Marc E. Williams
Nelson Mullins Riley & Scarborough LLP
949 Third Avenue, Suite 200
Huntington, WV 25701
Telephone: 304-526-3509
marc.williams@nelsonmullins.com

INVITED IN-PERSON PARTICIPANTS

Lead trial counsel for the West Virginia Plaintiffs with cases pending in *In re: National Prescription Opiate Litigation*, No. 1:17-md-2804, United States District Court for the Northern District of Ohio, Eastern Division (“MDL 2804”) are invited to participate in person when mediation is reconvened on October 15, 2020. Plaintiffs’ Liaison Counsel shall provide a copy of this Order to lead trial counsel for the West Virginia Plaintiffs with cases pending in MDL 2804 immediately.

ALL OTHER PARTIES, COUNSEL, CORPORATE REPRESENTATIVES AND INSURER REPRESENTATIVES SHALL BE AVAILABLE TO PARTICIPATE IN MEDIATION BY TELECONFERENCE OR VIDEOCONFERENCE, AS NEEDED BY THE RESOLUTION JUDGES.

SIGN IN SHEET FOR IN-PERSON PARTICIPANTS

CONTACT SHEET FOR REMOTE PARTICIPANTS

Liaison Counsel for Plaintiffs and Defendants shall coordinate with one another in order

to submit one, comprehensive sign in sheet containing the names, email addresses and other contact information of all counsel participating in the mediation in person; and one comprehensive contact sheet containing the names, email addresses and other contact information of all other parties, counsel, corporate representatives and insurer representatives required to be available by teleconference or videoconference to the Mass Litigation Manager via electronic mail at kim.fields@courts.wv.gov no later than **October 8, 2020**.

PRE-MEDIATION VIDEOCONFERENCE

Liaison Counsel for the parties shall participate in a pre-mediation videoconference with the Resolution Judges at **12:00 p.m. on October 8, 2020**, to discuss any outstanding issues related to the mediation. The Mass Litigation Manager shall schedule the videoconference.

SUPPLEMENTAL MEDIATION STATEMENTS

Plaintiff's Lead Coordinating Counsel and Defendants' Lead Coordinating Counsel shall confer and coordinate with their respective co-counsel and shall submit supplemental mediation statements to Lead Resolution Joanna I. Tabit, Resolution Judge Jay M. Hoke, and Resolution Judge Gregory L. Howard by no later than **October 8, 2020**, which shall discuss the issues the parties believe must be mediated in order to fully resolve the Opioid Litigation.

The parties are reminded that supplemental mediation statements are confidential. Each party must place their supplemental mediation statement in a sealed envelope marked, **"CONFIDENTIAL SUPPLEMENTAL MEDIATION STATEMENT."** The supplemental mediation statements shall either be hand delivered, or delivered by Federal Express, UPS or any other express mail service with tracking capability to Lead Resolution Joanna I. Tabit, Resolution Judge Jay M. Hoke, and Resolution Judge Gregory L. Howard.

EX PARTE CONTACTS

Before, during and after the reconvened mediation, the Resolution Judges may find it necessary and useful to communicate with one or more parties outside the presence of the other party or parties.

CONFIDENTIALITY

The parties are reminded that any written statement or discussion regarding mediation is confidential; shall not be used in the present litigation or in any other litigation (whether presently pending or filed in the future); and shall not be construed as or constitute an admission. Breach of this provision shall subject the violator to sanctions.

OBLIGATION OF GOOD FAITH PARTICIPATION

The required in-person participants shall attend the entire mediation in person and shall be available and accessible throughout the mediation process to the Resolution Judges and to their respective co-counsel. All other parties, counsel, corporate representatives and insurer representatives shall be available to participate in mediation by teleconference or videoconference, as needed by the Resolution Judges.

No party may be compelled by this Order, the Mass Litigation Panel, or the Resolution Judges to settle a case involuntarily or against the party's judgment. However, the Resolution Judges expect the parties' full and good faith cooperation with the mediation process and expect the participants to be prepared to participate fully, openly and knowledgeably in a mutual effort to examine and resolve issues. The Resolution Judges encourage all participants to keep an open mind in order to reassess their previous positions and to find creative means for resolving the dispute.

MEMORIALIZATION OF SETTLEMENT

If the parties reach a resolution of their dispute, the parties shall memorialize the general terms of their settlement in a written memorandum signed by counsel. A copy of the settlement memorandum shall be provided to the Resolution Judges prior to conclusion of the mediation.

IMPOSITION OF SANCTIONS

All counsel are reminded of their obligations to read and comply with this Order.

To avoid the imposition of sanctions, counsel shall advise the Resolution Judges immediately of any problems regarding compliance with this Order.

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

It is so **ORDERED**.

ENTER: September 15, 2020.

/s/ Joanna I. Tabit
Lead Resolution Judge
Opioid Litigation