



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 REQUIRING DECEMBER 18, 2020 MEDIATION TO BE CONDUCTED
BY TELEPHONE CONFERENCE AND/OR VIDEO CONFERENCE**

Because of the COVID-19 pandemic and the upcoming holidays, the Resolution Judges **ORDER** the December 18, 2020 mediation shall be conducted by telephone conference and/or video conference. A schedule of meetings with the Resolution Judges will be forthcoming. Videoconferences with the Resolution Panel will be set up via WebEx or Microsoft Teams. All parties should download these platforms for participation in mediation.

REQUIRED PARTICIPANTS:

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INVITED 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 mediation by telephone conference and/or video conference on December 18, 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.

CONTACT SHEET

Liaison Counsel for Plaintiffs and Defendants shall coordinate with one another to prepare one, comprehensive contact sheet containing the names, party(ies) represented, email addresses, telephone numbers and other contact information of all 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@courtswv.gov no later than **December 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 December 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 **December 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 Participants shall be available and accessible throughout the mediation process to the Resolution Judges and to their respective co-counsel by telephone conference or video conference. All other parties, counsel, corporate representatives and insurer representatives shall be available to participate in mediation by telephone conference or video conference, if 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: November 19, 2020.

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