



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**  
**IN RE: OPIOID LITIGATION** **CIVIL ACTION NO. 21-C-9000 MFR**

**THIS DOCUMENT APPLIES TO ALL MANUFACTURER CASES**

**ORDER REGARDING TRIAL LOGISTICS FOR THE  
STATE OPIOID MANUFACTURER PROCEEDINGS**

Having reviewed and maturely considered the parties' *Joint Motion for Status Conference* (Transaction ID 67266096) seeking guidance regarding trial-related logistics for the April 4, 2022, trial of the State Opioid Manufacturer Proceedings as well as the *Case Management Order Relating to the State Opioid Manufacturer Proceedings* (Transaction ID 66992975)("Case Management Order") and the *Order Setting Location of State Opioid Manufacturer Proceedings* (Transaction ID 67080746), the Panel hereby **ORDERS:**

**Designated Number of Trial Days, Estimated Length of Trial, and Trial Schedule**

Trial will be conducted Monday through Friday from 9:00 a.m. until 5:00 p.m. commencing on Monday, April 4, 2022. There will be a 10-minute break mid-morning; an hour lunch break; and a 10-minute break mid-afternoon. The Panel has reserved two months for trial.

**Motions for Summary Judgment**

The parties shall work together to provide notebooks to the Presiding Judge and to Counsel to the Mass Litigation Panel containing all briefing of any motions for summary judgment via hand delivery, Federal Express, UPS or any other express mail service with tracking capability **for receipt no later than 12:00 p.m. on March 18, 2022.** If necessary, oral argument of motions for summary judgment will be heard during the pretrial conference on March 25, 2022.

### **Motions Challenging Admissibility of Expert Testimony**

The parties shall work together to provide notebooks to the Presiding Judge and to Counsel to the Mass Litigation Panel containing all briefing of any motions challenging admissibility of expert testimony via hand delivery, Federal Express, UPS or any other express mail service with tracking capability **for receipt no later than 12:00 p.m. on March 18, 2022.** If necessary, oral argument of any motions challenging admissibility of expert testimony will be heard during the pretrial conference.

### **Motions *in Limine***

No replies in support of motions *in limine* will be allowed. The parties shall work together to provide notebooks to the Presiding Judge and to Counsel to the Mass Litigation Panel containing all briefing of any motions *in limine* via hand delivery, Federal Express, UPS or any other express mail service with tracking capability **for receipt no later than 12:00 p.m. on March 21, 2022.**

### **Handling of Trial Testimony Presented by Video**

The Presiding Judge will watch trial testimony presented by video during the trial. The party proffering trial testimony by video shall provide the Presiding Judge and Counsel to the Mass Litigation Panel with a hard copy and an electronic copy of the transcript of the video testimony prior to the playing of the video and shall also provide the Presiding Judge and Counsel to the Mass Litigation Panel with a copy of the video.

### **Handling of Objections to Deposition Designations or Exhibits**

The parties shall meet and confer to resolve objections to deposition designations and exhibits **no later than March 14, 2022.** The Presiding Judge will hear oral argument regarding any unresolved objection to a deposition designation or an exhibit during trial and will rule on

such objection at that time unless, doing so will delay the course of trial. In that event, the Presiding Judge will allow presentation of the evidence to vouch the record, take the objection under advisement, and rule on the objection in the final order.

### **Handling of Exhibits**

The Case Management Order is modified as follows: the parties shall prepare a joint agreed exhibit list which shall be part of the Pretrial Memoranda that is to be filed and served **no later than 12:00 p.m. March 21, 2022**. Plaintiff shall prepare a list of contested exhibits and Defendants shall prepare a list of contested exhibits, which shall also be part of the Pretrial Memoranda. **All exhibits shall be pre-marked.** A notebook of pre-marked exhibits and an electronic copy of pre-marked exhibits shall be provided to the Presiding Judge and to Counsel to the Mass Litigation Panel via hand delivery, Federal Express, UPS or any other express mail service with tracking capability **for receipt no later than 12:00 p.m. on March 21, 2022**.

### **Pretrial Memoranda**

All parties shall file and serve their pretrial memoranda **no later than 12:00 p.m. on March 21, 2022**. The pretrial memoranda shall contain the following:

- a. Statement of the Case
- b. Issues of Fact
- c. Issues of Law
- d. Proposed Stipulations
- e. A Pre-Marked Exhibit List (NO reservations authorized) which shall consist of:
  - Joint Agreed Exhibit List
  - Plaintiff's List of Contested Exhibits
  - Defendants' List of Contested Exhibits
- f. Witness List (NO reservations authorized) which shall consist of:

- All witnesses expected to be called at trial.
- The schedule of witnesses expected to be called the week of April 4, 2022, through April 8, 2022, shall be provided to the Presiding Judge and Counsel to the Mass Litigation Panel at the pretrial conference on March 25, 2022.
- At the conclusion of the evidence each Friday the schedule of witnesses for the following week shall be provided to the Presiding Judge and Counsel to the Mass Litigation Panel.

g. Unresolved Objections to Deposition Designations

**Proposed Findings of Fact and Conclusions of Law**

The parties shall provide their proposed findings of fact and conclusion of law in Word Format to Counsel to the Mass Litigation Panel no later than five (5) business days after closing arguments are concluded.

**Order of Trial Presentation**

State of West Virginia *ex rel.* Patrick Morrissey, Attorney General  
Teva and Actavis Generic Defendants  
Allergan Defendants  
Janssen Pharmaceuticals and Johnson & Johnson Defendants

**Technology Issues**

The parties shall meet, confer, and provide one detailed list of questions regarding technology use in the courtroom to Counsel to the Mass Litigation Panel via electronic mail message at [kim.fields@courtswv.gov](mailto:kim.fields@courtswv.gov) **no later than 12:00 p.m. on February 22, 2022.**

It is so **ORDERED.**

**ENTERED:** February 15, 2022.

/s/ Derek C. Swope  
Presiding Judge  
Opioid Litigation