



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION

Civil Action No. 21-C-9000 MFR

THIS DOCUMENT APPLIES TO THE FOLLOWING CASES:

STATE OF WEST VIRGINIA, *ex rel.*
PATRICK MORRISEY, Attorney General

Plaintiff,

v.

TEVA PHARMACEUTICAL
INDUSTRIES, LTD; *et al.*

Defendants.

Civil Action No. 19-C-104 BNE

STATE OF WEST VIRGINIA, *ex rel.*
PATRICK MORRISEY, Attorney General

Plaintiff,

v.

JANSSEN PHARMACEUTICALS, INC.;
et al.

Defendants.

Civil Action No. 19-C-105 BNE

ORDER RECONVENING MEDIATION ON MARCH 23, 2022

Lead Resolution Judge Joanna I. Tabit, Resolution Judge Jay M. Hoke, and Resolution Judge Gregory L. Howard **ORDER** mediation of the above-listed cases to be reconvened at **9:00 a.m. on March 23, 2022**, by video conference. All Required Participants must download the Microsoft Teams Meeting platform to participate in mediation. Counsel to the Mass Litigation Panel will send a Microsoft Teams Meeting invitation to the Required Participants **on March 16, 2022**. All Required Participants must appear at the initial meeting. Thereafter, Required

Participants will be notified throughout the day via email when the Resolution Judges are ready to meet with them.

REQUIRED PARTICIPANTS:

State of West Virginia *ex rel.* Patrick Morrissey, Attorney General:

Attorney General Patrick Morrissey
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Janssen Pharmaceuticals, Inc. and Johnson & Johnson:

Local Counsel, Marc E. Williams
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Teva Pharmaceutical Industries, Ltd., *et al.* (Teva Defendants):

Local Counsel, Keith A. Jones
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Frank Cavanaugh
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Allergan Finance, LLC, et al. (Allergan Defendants):

Local Counsel, Patricia M. Bello
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Kevin Orr
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Nancy Kim
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AUTHORITY

Lead trial counsel and any corporate representative participating in mediation must be familiar with the cases to be mediated and must have **full authority** to act on behalf of the party or parties they represent, including full authority to negotiate a resolution of the cases and to respond to developments during the mediation process.

CONFIDENTIALITY

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.

MEET AND CONFER AND CONFIDENTIAL MEDIATION STATUS REPORTS:

The parties shall meet and confer to discuss their respective settlement positions **no later than March 18, 2022**. Each party shall deliver a confidential mediation status report to the Resolution Judges via hand delivery, Federal Express, UPS or any other express mail service with tracking capability **no later than March 21, 2022**.

The status report shall state on its face “**CONFIDENTIAL MEDIATION STATUS REPORT**” and shall be placed in an envelope marked “**CONFIDENTIAL MEDIATION STATUS REPORT.**”

The mediation status report shall provide: 1) a **brief** discussion of settlement negotiations between the parties after mediation was conducted on February 3-4, 2022, including the latest demand made by the Plaintiff and Defendants' response to that demand, and an assessment as to why settlement has not been reached; and 2) the party's proposed term(s) of settlement, including any proposed terms that may be non-monetary, as well as any suggestions regarding how the Resolution Judges may assist the parties in reaching resolution.

Mediation status reports **shall not** be filed with the Clerk's office, **shall not** be exchanged among the parties or counsel (unless the parties or counsel so desire), **shall not** be provided to the Presiding Judges, and **shall not** become part of the record in this matter. **Mediation status reports shall not be electronically filed and served since they are not part of the Court record.**

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.

EX PARTE CONTACTS

Before, during and after the scheduled 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.

OBLIGATION OF GOOD FAITH PARTICIPATION

All Required Participants shall be available and accessible throughout the mediation process. 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 and to reassess their previous positions and to find creative means for resolving the dispute.

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**.

ENTERED: February 9, 2022.

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