



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 REGARDING MOTION TO DRAW DOWN FUNDS FROM PLAINTIFFS'
SETTLEMENT PROCEEDS TO PAY CONTINUING LITIGATION EXPENSES
IN PLAINTIFFS' REMAINING OPIOID MLP CLAIMS AGAINST KROGER**

Having reviewed and considered the *Motion to Draw Down Funds from Plaintiffs' Settlement Proceeds to Pay Continuing Litigation Expenses in Plaintiffs Remaining Opioid MLP Claims Against Kroger* (Transaction 69249233) filed by the County and City Plaintiffs, the Response filed by Plaintiff, the State of West Virginia, acting through its Attorney General, Patrick Morrissey (Transaction ID 69299563) and the County and City Plaintiffs' Reply (Transaction ID 69311008), the Court finds there is good cause to allow Plaintiffs in the above-captioned consolidated Civil Action to draw down Two Million Dollars (\$2,000,000.000) from funds already paid and on deposit from Mass Litigation Panel ("MLP") opioid settlements to be used to pay for Plaintiffs' continuing litigation expenses in connection with Plaintiffs' remaining claims against Kroger.

It is hereby **ORDERED** that the West Virginia Attorney General shall direct Huntington National Bank to transfer Two Million Dollars (\$2,000,000.00) of funds on deposit from MLP opioid settlements to the MLP Opioid Expense Account maintained by the Fitzsimmons Law Firm PLLC at Community Bank at 1701 Warwood Avenue, Wheeling, WV 26003. Said funds shall be used by Plaintiffs for the sole purpose of paying reasonable expenses incurred in connection with the remaining claims against Kroger now pending in the MLP Opioid Litigation. Wire instructions shall be provided by Robert P. Fitzsimmons.

It is further **ORDERED** that any determination as to how these withdrawn funds are to be treated under the West Virginia First Memorandum of Understanding, entered into by all Plaintiffs and approved and adopted by the MLP on January 4, 2023 (Transaction ID 68796699) is deferred until further order of the Court.

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: March 10, 2023.

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

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation