



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 ESTABLISHING PROCEDURE FOR DESIGNATION
AND USE OF DEPOSITION TESTIMONY AT TRIAL**

Pending before the Court is the parties' *Joint Motion for Order Establishing Procedure for Designation and Use of Deposition Testimony at Trial in the State Opioid Manufacturer Proceedings* (Transaction ID 67389700). Finding good cause shown, the Court **GRANTS** the parties' motion. To coordinate the procedure for designation and use of deposition testimony at trial the Court **ORDERS** the schedule and procedure set forth below.

1. Any Party calling a witness to testify by deposition designation shall include that witness on their disclosed witness list. Affirmative designations and exhibits for proposed deposition designations for "Will Call (by Deposition)" witnesses shall be exchanged no later than March 14, 2022.
2. By March 25, 2022, any offering Party may select up to 5 deposition designations of the "Will Call (by Deposition)" witnesses to start the meet and confer process to resolve objections. Objections to testimony and exhibits, completeness, and counter designations of these selected deposition designations shall be served on March 31, 2022. The offering party's responses, objections, and rebuttal designations shall be served 48 hours after receipt. All objections to rebuttal designations shall be served 24 hours after receipt.
3. Once trial begins, proposed deposition designations of "Will Call (Live or by Deposition)" "May Call (Live or by Deposition)" or "May Call (by Deposition)"

witnesses will be exchanged on a rolling basis, not later than the Friday one week prior to the trial week when the deposition will be played (10 days prior).

4. For proposed deposition designations exchanged on a rolling basis pursuant to paragraph 3 above, objections to testimony and exhibits, completeness, and counter designations shall be served 72 hours after receipt of the proposed designations. The offering party's responses, objections to completeness, and rebuttal designations shall be served 48 hours after receipt. All objections to rebuttal designations shall be served 24 hours after receipt. For example, Paragraph 3 triggers a Friday disclosure, making initial objections and counter-designations due on the following Monday, the offering Party's objections to counter-designations and rebuttal designations due on Wednesday, and (if necessary) objections to rebuttal designations due on Thursday.
5. After the exchanges described above are complete, the Parties shall meet and confer regarding objections to designations upon request. All unresolved objections shall be submitted to the Court for resolution as soon as practicable but no later than 48 hours after conclusion of the meet-and-confer.
6. The offering party shall disclose final video files and transcripts by 12 PM on the day prior to the date they will be played. The offering party will provide the Presiding Judge and Counsel to the Mass Litigation Panel with a copy of the video.
7. The Parties agree to work in good faith to identify a mutually agreeable format for the exchange of page and line citations for deposition testimony in a manner that permits their respective technical teams to efficiently cut the final videos. The parties further agree that attorney objections and commentary shall not be included in any party's designations.

8. Deposition designations being used for exhibit admissibility purposes (e.g., authenticity, foundation, etc.) are not subject to this Order; such designations shall be exchanged as soon as practicable following receipt of the admissibility objection.

To the extent any provisions in this Order are inconsistent with provisions related to depositions designations in the Trial Logistics Order dated February 15, 2022 (Transaction ID 67317192), the provisions of this Order are intended to supersede the provisions of the Trial Logistics Order.

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 15, 2022.

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation