



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION

**CIVIL ACTION NO. 21-C-9000
DISTRIBUTOR**

THIS DOCUMENT APPLIES TO ALL DISTRIBUTOR CASES

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**DISTRIBUTOR DEFENDANTS' MOTION FOR RECONSIDERATION OF THE
PANEL'S MAY 3, 2022 ORDER REFERRING ADMISSIBILITY DISPUTES
TO DISCOVERY COMMISSIONER**

Defendants AmerisourceBergen Drug Corporation, Cardinal Health, Inc., and McKesson Corporation (collectively, "Distributors") hereby seek reconsideration of the Panel's Order Referring Admissibility Disputes to Discovery Commissioner (Transaction ID 67577033), entered on May 3, 2022.

The Panel's May 3, 2022 Order authorizes the Discovery Commissioner to hear argument on motions for pretrial rulings on the admissibility of evidence and to make recommended rulings to the Presiding Judges on the motions. This differs from the process used in the Phase 1 manufacturer case, in which pre-trial evidentiary disputes were handled directly with the Panel.

Distributors appreciate the role that the Discovery Commissioner has played in managing the parties' discovery disputes. However, Distributors submit that the Judges who will preside at trial, rule on ultimate evidentiary questions, and issue findings of fact and conclusions of law should handle all matters pertaining to trial evidentiary issues, including argument on pre-trial evidentiary motions. Based on two previous trials, including one in West Virginia, Distributors reasonably expect that the pre-trial evidentiary issues will require additional consideration, interpretation and enforcement during trial, and submit that it has proven to be most efficient to have the judicial officer presiding over the trial also hear argument on such issues prior to trial.

Denied Judge Alan D Moats May 17, 2022

For these reasons, Distributors respectfully request that the Panel reconsider its May 3, 2022 Order and adopt the same process for resolving pre-trial admissibility disputes followed in the Phase 1 manufacturer case.

Dated: May 11, 2022

Respectfully submitted,

/s/ Gretchen M. Callas
Gretchen M. Callas (WVSB #7136)
Albert F. Sebok (WVSB #4722)
JACKSON KELLY PLLC
Post Office Box 553
Charleston, West Virginia 25322
(304) 340-1000
gcallas@jacksonkelly.com
asebok@jacksonkelly.com

Shannon E. McClure (*pro hac vice*)
Joseph J. Mahady (*pro hac vice*)
Michael J. Salimbene (*pro hac vice*)
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, Pennsylvania 19103
(215) 851-8100
smcclure@reedsmith.com
jmahady@reedsmith.com
msalimbene@reedsmith.com

Counsel for AmerisourceBergen Drug Corp.

Todd A. Mount (WVSB# 6939)
SHAFFER & SHAFFER
P.O. Box 38
Madison, West Virginia 25130
(304) 369-0511
tmount@shafferlaw.net

Counsel for AmerisourceBergen Drug Corp.
In 17-C-253 MSH, 19-C-150 MSH, 19-C-260 MSH,
19-C-262 MSH, and 19-C-263 MSH

/s/ John J. Meadows

Russell D. Jessee (WVSB #10020)
russell.jessee@steptoe-johnson.com
John J. Meadows (WVSB #9442)
john.meadows@steptoe-johnson.com
STEPTOE & JOHNSON PLLC
Chase Tower, 17th Floor
P.O. Box 1588
Charleston, WV 25326
Telephone: (304) 353-8000

Counsel to McKesson Corporation in actions by Brooke, Hancock, Ohio, Tyler, Wetzel, Doddridge, Roane, Wirt, Pleasants, Pendleton, Grant, Mineral, and Monroe Counties; the Cities of St. Marys, Grafton, Philippi, and Beckley; and the Towns of Madison and Star City

/s/ Jeffrey M. Wakefield

Jeffrey M. Wakefield (WVSB #3894)
jwakefield@flahertylegal.com
FLAHERTY SENSABAUGH BONASSO PLLC
P.O. Box 3843
Charleston, WV 25338-3843
Telephone: (304) 345-0200

Counsel to McKesson Corporation in actions by Lewis, Marshall, Monongalia, Marion, Randolph, Upshur, Tucker, Hardy, and Preston Counties; the Cities of Chesapeake, Nitro, Richwood, South Charleston, White Sulphur Springs, Mullens, Belington, Point Pleasant, Weirton, and Fairmont; and the Towns of Belle, Ceredo, Delbarton, Matewan, Oceana, Junior, and Romney

/s/ Jamison H. Cooper

Daniel C. Cooper (WVSB# 5476)
dan.cooper@cooperlawwv.com
Jamison H. Cooper (WVSB# 8043)
jami.cooper@cooperlawwv.com
COOPER LAW OFFICES, PLLC
240 West Main Street
Bridgeport, WV 26330
Telephone: (304) 842-0505

Counsel to McKesson Corporation in actions by Harrison, Mason, Barbour, Taylor, Webster, Jackson, Wood, and Ritchie Counties; the Cities of Clarksburg, Ripley, Spencer, Williamstown, and Moundsville; the Village of Barboursville; the Towns of Addison (Webster Springs), Ravenswood, Elizabeth, and Harrisville; and the Hospital Plaintiffs

Timothy C. Hester (pro hac vice)
thester@cov.com
Mark H. Lynch (pro hac vice)
mlynch@cov.com
John J. DeBoy (pro hac vice)
jdeboy@cov.com

E. Rae Woods (pro hac vice)
rwoods@cov.com
Christian J. Pistilli (pro hac vice)
cpistilli@cov.com
Laura Flahive Wu (pro hac vice)
lflahivewu@cov.com
Marc P. Capuano (pro hac vice)
mcapuano@cov.com
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Tel: (202) 662-6000

Carol Dan Browning (pro hac vice)
STITES & HARBISON PLLC
cbrowning@stites.com
400 West Market Street, Suite 1800
Louisville, KY 40202-3352
Tel: 502-681-0516

Counsel to McKesson Corporation

/s/ Steven R. Ruby
Michael W. Carey (WVSB No. 635)
Steven R. Ruby (WVSB No. 10752)
David R. Pogue (WVSB No. 10806)
Raymond S. Franks II (WVSB No. 6523)
CAREY DOUGLAS KESSLER & RUBY PLLC
901 Chase Tower, 707 Virginia Street, East
P.O. Box 913
Charleston, WV 25323
Telephone: (304) 345-1234
Facsimile: (304) 342-1105
mwcarey@csdlawfirm.com
sruby@cdkrlaw.com
drpogue@cdkrlaw.com
rfranks@cdkrlaw.com

Counsel for Cardinal Health, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2022 the foregoing Distributor Defendants' Motion for Reconsideration of The Panel's May 3, 2022 Order Referring Admissibility Disputes to Discovery Commissioner was served on all counsel of record via File & ServeXpress.

/s/Gretchen M. Callas
Gretchen M. Callas (WVSB# 7136)

Denied Judge Alan D Moats May 17, 2022