



**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**

**ORDER RECONVENING MEDIATION ON JUNE 22-23, 2022**

The Resolution Judges **ORDER** mediation of the Opioid Litigation Distributor Cases to be reconvened on June 22-23, 2022. Mediation will be conducted on the 17<sup>th</sup> Floor of the Chase Bank Building, located at 707 Virginia Street, East, Charleston, West Virginia 25701. **Mediation will begin at 9:00 a.m. on June 22, 2022.** All Required Participants must appear in person.

**REQUIRED PARTICIPANTS:**

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The Required Participants shall be available and accessible throughout the mediation process to the Resolution Judges and to their respective co-counsel by telephone conference or video conference.

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 to reassess their previous positions and to find creative means for resolving the dispute.

### **MEET AND CONFER AND CONFIDENTIAL MEDIATION STATUS REPORTS:**

The parties shall meet and confer to discuss their respective settlement positions **no later than June 1, 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 June 15, 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, including the latest demand made by the Plaintiffs 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.**

### **EX PARTE CONTACTS**

Before, during and after the reconvened 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.

## **CONFIDENTIALITY**

The parties are reminded that 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.

## **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 of understanding signed by counsel. A copy of the settlement memorandum of understanding shall be provided to the Resolution Judges as soon as practicable after the conclusion of the mediation.

## **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**.

**ENTER:** May 18, 2022.

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