



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION

CIVIL ACTION NO. 21-C-9000 PHARM

THIS DOCUMENT APPLIES TO ALL STATE CASES AGAINST PHARMACIES

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

To coordinate the procedure for the designation and use of deposition or trial testimony for trial as ordered by the Court, this Order is entered to establish the below schedule and procedure.

1. Any Party calling a witness to testify by deposition or trial designation shall include that witness on their disclosed witness list.¹ Affirmative designations and exhibits for proposed deposition or trial designations for “Will Call (by Deposition/Trial)” witnesses shall be exchanged no later than August 19, 2022. Exhibits shall be provided in PDF or native format.
2. The adverse party shall serve any objections to testimony and exhibits, completeness designations, and counter designations no later than August 26, 2022. Any Party calling a witness shall provide the complete transcript for that deposition within 24 hours upon request by the adverse party, preferably in .txt format if available.
3. The offering party’s responses, objections, and rebuttal designations shall be served no later than August 31, 2022. All objections to rebuttal designations shall be served by September 1, 2022.
4. Consistent with the Court’s July 20, 2022, *Order Regarding Trial Logistics* (Transaction ID 67837970) (“July 20, 2022, Order”), the Parties shall meet and confer regarding objections to designations upon request, but in no event later than September 2, 2022.

¹ The Parties reserve all rights to contest what deposition or trial designations are permissible. Nothing in this Order is intended to affect the Parties’ right to contest the designation of certain transcripts.

5. The offering party shall be responsible for delivering to the Court a complete set of both parties' deposition designations, trial designations and any objections thereto by September 9, 2022. As further required by the July 20, 2022, Order the parties shall provide the Court with a list identifying the order in which all video depositions will be played **no later than 12:00 p.m. on Friday, September 9, 2022**, so the Court can prioritize rulings on deposition designations on a rolling basis, as needed by the parties.
6. Certain depositions have recently occurred or are ongoing in this matter and therefore those transcripts are not available for designations by August 19, 2022. Thus, the Parties agree to the following schedule for any final deposition transcript² received after August 17, 2022:
 - a. The offering party shall provide affirmative designations and exhibits for such depositions within 2 business days of receiving the final transcript;
 - b. The adverse party shall serve objections and counter designations shall be served within 2 business days after submission of affirmative designations;
 - c. Objections, and rebuttal designations shall be served 48 hours thereafter (or on the next business day if the 48-hour period expires on a weekend or holiday); and objections to rebuttal designations shall be served 24 hours thereafter (or on the next business day if the 48-hour period expires on a weekend or holiday).
 - d. In the event this schedule extends beyond the Court's September 9, 2022, deadline for final submission of the Parties' designations and objections, any such deposition testimony will be admitted during trial, and the Court will review the testimony after trial concludes. The "run times" for the proffering party's designations and the

² For purposes of this Order, "final deposition transcript" means a transcript designated as "final" by the court reporter, even though the witness may not have completed an errata or witness signature page.

opposing party's designations of such deposition testimony will be charged to the parties' trial time pursuant to Paragraphs 7 and 8 of the *Order Establishing Timekeeping at Trial in the State Opioid Pharmacy Proceedings* (Transaction ID 67891243).

7. During trial, the offering party shall disclose proposed final video files and transcripts to the adverse side by 12 PM at least two days prior to the date they will be played. The offering party shall include all parties' designations in the proposed final video files, unless the run time of the adverse party's designations exceed the run time for the offering party's designations. The adverse party will have 24 hours to review the proposed final materials and request revisions.
8. The offering party will provide the Presiding Judges and Counsel to the Mass Litigation Panel with a copy of the video and transcripts by 12 PM on the day prior to the date they will be played.
9. The Parties agree to exchange page and line citations for deposition or trial testimony in spreadsheet format (either .xlsx or .csv) with the following columns: A-Page Begin; B-Line Begin; C-Page End; D-Line End; E-Designation Type [e.g. Plaintiff Affirmative]; F-Objections; G-Replies; H-Rebuttal. The parties further agree that attorney objections and commentary shall not be included in any party's pdf transcript summary, but shall be included on the ruling sheet submitted to the Court.

A copy of this Order has this day been served upon all counsel of record via File & ServeXpress.

It is so **ORDERED**.

ENTERED: August 20, 2022.

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

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation