



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

Now pending before the Court is a *Motion to Declare the Rights of Motley Rice LLC Under W.Va. Code § 5-3-3a(h) and the West Virginia First Memorandum of Understanding Regarding Recovery of Attorney Fees in Pending Opioid-Related Claims Brought by West Virginia Local Governments* (Transaction ID 80227885) (“Motion”), filed by Anne McGinness Kearse and John D. Hurst as counsel for the law firm of Motley Rice LLC, which was lead counsel as outside special counsel for the Attorney General in the Manufacturer and Pharmacy Defendants cases before the Mass Litigation Panel, and is now counsel of record for the City of Charleston and the City of Huntington as Plaintiffs in opioid-related cases filed against pharmacy benefit manager (“PBM”) Defendants in the United States District Court for the Northern District of West Virginia (Bailey, J. presiding) (“WVPBM Litigation”).

Motley Rice seeks a declaration of its right to be eligible to recover attorney fees for work performed on behalf of Local Government Plaintiffs in the WVPBM Litigation pending in federal court without violating the Common Benefit Commissioner’s Recommendations Regarding Attorney Fees and Expenses (Transaction ID 70922195) issued pursuant to the *West Virginia First Memorandum of Understanding* (“WVMOU”) (Transaction ID 68760098) and construing the attorney fee cap under W.Va. Code § 5-3-3a(h).

As counsel for Motley Rice stated, their request, “addresses the WVPBM Litigation proceeding in federal court, which involves different cases brought at later times and pending in a different court.” Mot. p. 9. This Court has ruled that it lacks subject matter jurisdiction to bind

litigants in federal court and encroach upon the federal court's jurisdiction regarding the WVPBM Litigation. *Order Regarding Motion to Declare the Rights and/or Status Under the West Virginia First Memorandum of Understanding Regarding Pending Opioid Related Claims Brought by West Virginia Local Governments* (Transaction ID 80406778) entered August 20, 2026. Therefore, Motley Rice's Motion is **DENIED as MOOT** by prior order.

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

It is so **ORDERED**.

ENTERED: August 21, 2026.

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation