



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 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**

Now pending before the Court is a *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 80032025) (“Motion”), filed by Paul T. Farrell, Jr. and Robert P. Fitzsimmons, Co-Leads for the West Virginia local governments in the Distributor Phase of the West Virginia Opioid Litigation (“Movants”). The Court has reviewed and considered the Motion, the State of West Virginia’s Opposition (Transaction ID 80228565), Movants’ Reply (Transaction ID 80305588), and the Notice of Service (Transaction ID 80336897). Oral argument will not aid the Court in rendering its decision.

Movants seek a declaration of rights and/or status under the *West Virginia First Memorandum of Understanding* (“WVMOU”) (Transaction ID 68760098) regarding opioid claims filed in the United States District Court for the Northern District of West Virginia (Bailey, J., presiding) (“WVPBM Litigation”) by local government plaintiffs and the State of West Virginia, through the Attorney General, against certain pharmacy benefit managers (“PBMs”). See Mot., pp. 1-2.

Specifically, pursuant to the Court’s inherent powers, Rule 57 of the West Virginia Rules of Civil Procedure, and the West Virginia Uniform Declaratory Judgment Act, W.Va. Code § 55-13-1 *et seq.*, Movants want the Court to answer the following questions:

1. Whether the WVMOU applies to the WVPBM litigation?
2. Whether a judgment/settlement in favor of a county/city bellwether plaintiff in the WVPBM litigation is an “Opioid Fund” as defined by the WVMOU?

This Court does not have authority to interfere with a federal court proceeding. As long held by the Supreme Court of Appeals of West Virginia, “A state court has no jurisdiction to enjoin a proceeding or judgment of a federal court. The jurisdictions are separate and independent, and it is essential to the independence and efficiency of each that they be exempt from interference and control one by the other.” Syllabus point 2, *State ex rel. Small v. Clawges*, 231 W.Va. 301, 302, 745 S.E.2d 192, 194 (2013), *citing* Syllabus point 3, *Henderson v. Henrie*, 61 W.Va. 183, 56 S.E. 369 (1907). Applying the WVMOU to ongoing federal litigation would improperly interfere with the jurisdiction of the federal court. Accordingly, the Court **DENIES** the Motion on the grounds that it lacks subject matter jurisdiction to bind litigants in federal court and encroach upon the federal court’s jurisdiction.

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

It is so **ORDERED**.

ENTERED: August 20, 2026.

/s/ Derek C. Swope
Presiding Judge
Opioid Litigation