

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

All MDL Tribal Cases

MDL No. 2804

Case No. 17-md-02804

Judge Dan Aaron Polster

**PLAINTIFFS' TRIBAL LEADERSHIP COMMITTEE'S
STATEMENT REGARDING PARTIAL SETTLEMENTS**

The undersigned counsel, in their capacity as members of the Plaintiffs' Tribal Leadership Committee (TLC), respectfully notify the Court that they have reached settlements in principle to resolve Native American/Alaska Native Tribal claims against Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. N/K/A Janssen Pharmaceuticals, Inc., Johnson & Johnson, Ortho-McNeil-Janssen Pharmaceuticals, Inc., N/K/A Janssen Pharmaceuticals, Inc. ("Janssen"), and with AmerisourceBergen Corp., McKesson Corp., and Cardinal Health, Inc. ("Distributors") (collectively "Settling Defendants"). All federally recognized Tribes are eligible to participate in both settlements.

The TLC and Janssen agreed to resolve the Tribal claims for \$150,000,000, payable over two years.

The TLC and the Distributors resolved the Tribal claims for \$439,964,500, payable over seven years. This amount does not include the \$75,035,500 settlement of the Cherokee Nation's bellwether litigation previously agreed to by the Cherokee Nation and the Distributors.

The TLC and the Settling Defendants entered into settlement Term Sheets summarizing their agreements and are in the process of drafting definitive settlement agreements. All federally recognized Tribes will receive notice of how they may participate in both settlements. All federally recognized Tribes will be eligible to participate in both settlements regardless of whether the Tribe has previously filed suit against the Settling Defendants.

In support of this Statement, the TLC reports:

1. The Native American population has suffered some of the worst consequences of the opioid epidemic of *any* population in the United States. Indeed, American Indians have suffered the *highest* per capita rate of opioid overdoses.¹ “American Indians and Alaska Natives had the highest drug overdose death rates in 2015 and the largest percentage increase in the number of deaths over time from 1999-2015 compared to other racial and ethnic groups.”² For this reason, Tribal governments across the United States have had to spend considerable tribal funds to cover the costs of the opioid crisis, including increased costs for health care, social services, child welfare, law enforcement and other government services that Tribes provide to

¹ National Congress of American Indians Policy Research Center, *Reflecting on a Crisis Curbing Opioid Abuse in Communities* (Oct. 2016), http://www.ncai.org/policy-research-center/research-data/prc-publications/Opioid_Brief.pdf.

² Statement by RADM Michael E. Toedt, MD, FAAFP, “Opioids in Indian Country: Beyond the Crisis to Healing the Community,” March 14, 2018 Hearing Before the U.S. Senate Committee on Indian Affairs, (<https://www.indian.senate.gov/sites/default/files/upload/HHS%20IHS%20testimony%20Opioids%20Indian%20Country%20SCIA%203-14-18%20revised.pdf>), citing to Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, “Illicit Drug Use, Illicit Drug Use Disorders, and Drug Overdose Deaths in Metropolitan and Nonmetropolitan Areas – United States,” Oct. 20, 2017 (<https://www.cdc.gov/mmwr/volumes/66/ss/pdfs/ss6619.pdf>).

their citizens. The burden of paying these increased costs has diverted scarce tribal funds from other needs and has imposed severe financial burdens on the Tribal Plaintiffs, which will continue to bear significant costs related to abatement of the opioid addiction problem in their communities.

2. The Court appointed the members of the TLC. The TLC serves the interests of the Tribal Plaintiffs that filed suit against the Settling Defendants and others in this consolidated MDL proceeding. In total there are 418 federally recognized Native American Tribal governments and 17 inter-tribal organizations with litigation pending before the Court against the opioid manufacturers, distributors, and certain pharmacies, all of whom these Tribal Plaintiffs maintain are responsible for the opioid crisis. This represents over 70% of the 574 federally recognized Tribes in the United States and an estimated 85% of all Tribal citizens.

3. The Court designated the TLC to coordinate the interests of these Tribal Plaintiffs, including with regard to global resolution of opioid-related claims against the Defendants, including the Settling Defendants.

4. The TLC has been engaged in parallel but separate settlement negotiations with Janssen and the Distributors. Special Master David Cohen, who this Court appointed on March 9, 2021 to address Tribal issues, *see* Doc. 3646, consensually and successfully mediated the proposed agreement between the TLC and Janssen. Former U.S. District Judge Layn Phillips consensually and successfully mediated the agreement between the TLC and the Distributors.

5. The TLC and the Settling Defendants executed Term Sheets reflecting settlement terms the parties will now incorporate into settlement agreements that will be presented to all federally recognized Tribes which may then decide whether to participate.

Respectfully submitted,

Plaintiffs' Tribal Leadership Committee

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of February, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF Systems.

s/ Tara D. Sutton

Tara D. Sutton