

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

INSYS THERAPEUTICS, INC. *et al.*,

Debtors.¹

Chapter 11

Case No. 19-11292 (KG)

(Jointly Administered)

Re: Docket No. 29

Objection Deadline: June 25, 2019 at 4:00 p.m. (ET)
Hearing Date: July 2, 2019 at 9:00 a.m. (ET)

**OBJECTION OF THE MDL PLAINTIFFS TO MOTION OF
DEBTORS FOR (I) ENTRY OF ORDERS PURSUANT TO 11 U.S.C. §§ 105(a)
AND 502(c) (A) ESTABLISHING PROCEDURES AND SCHEDULE FOR ESTIMATION
PROCEEDINGS AND (B) ESTIMATING DEBTORS' AGGREGATE LIABILITY FOR
CERTAIN CATEGORIES OF CLAIMS, (II) ENTRY OF PROTECTIVE ORDER,
AND (III) SUBORDINATION OF CERTAIN PENALTY CLAIMS**

The court-appointed² claimants' leadership team in *In re: National Prescription Opiate Litigation*, Case No. 17-md-02804, MDL No. 2804 (N.D. Ohio) (the "Opioid MDL"), including the three Co-Lead Counsel, sixteen-member Plaintiffs' Executive Committee, and three Co-Liaison Counsel, for and on behalf of the thousands of plaintiffs and proposed classes in the Opioid MDL, including various individuals, hospitals, third-party payors, health departments, public welfare agencies, counties, municipalities (including cities, towns, villages, etc.), and Native American tribes, among others with litigation claims against the Debtors (collectively, the "MDL Plaintiffs"), by and through its counsel, respectfully submit this objection (the

¹ The above-captioned debtors in these cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: Insys Therapeutics, Inc. (7886), IC Operations, LLC (9659), Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155). The Debtors' mailing address is 1333 South Spectrum Blvd. #100, Chandler, Arizona 85286.

² See Order Granting Plaintiffs' Renewed Motion to Approve Co-Leads, Co-Liaisons, and Executive Committee, *In re: National Prescription Opiate Litigation*, Case No. 17-md-02804, MDL No. 2804 (N.D. Ohio Jan. 4, 2018) [Dkt. No. 37], together with the Renewed Motion [Dkt. No. 34], annexed hereto as **Exhibit A**.

“Objection”) to the *Motion of Debtors for (I) Entry of Orders Pursuant to §§ 105(a) and 502(c) (A) Establishing Procedures and Schedule for Estimation Proceedings and (B) Estimating Debtors’ Aggregate Liability for Certain Categories of Claims, (II) Entry of Protective Order, and (III) Subordination of Certain Penalty Claims* [D.I. 29] (the “Motion”).³ In support of this Objection, the MDL Plaintiffs respectfully state as follows:

PRELIMINARY STATEMENT

1. The Motion was filed prematurely and asks this Court to consider and approve it on an expedited basis only 21 days into these cases. This Court should not do so, because the Motion is fatally flawed and should be denied.

2. Although the Debtors assert that their “only agenda” in these cases is “to set up a fair and transparent process to ensure the proportionate distribution of their limited assets among different creditor groups is equitable” the Motion ensures the opposite. It proposes a process that will limit the ability of similarly situated creditors to receive equitable distributions and offers no benefits whatsoever in proposing and confirming a plan. Worse, given likely future opioid participant-related Chapter 11 cases involving other debtor-defendants, the various creditor groups here will have to vigorously litigate, in the first stage of this proceeding, all issues that could be relevant to such other proceedings in a manner that will be entirely disproportionate to the limited assets of these Debtors.

3. Further, in addition to offering no practical benefits to the estates, the Motion is legally defective. The Debtors fail to offer any explanation as to how the Motion advances the administration of these cases or why it is necessary to avoid an “undue delay.” Further, it seeks relief that this Court is expressly without statutory authority to grant, and this lack of authority as

³ Capitalized terms utilized but not defined herein shall have the meanings ascribed to them in the Motion.

to part of the Motion renders the rest of the Motion pointless. Finally, it seeks to subordinate claims in a Chapter 11 proceeding based on law applicable only to a Chapter 7 proceeding.

4. The Motion is part of a flawed strategy for these cases. These cases are liquidation cases: the Debtors' only job is to sell their assets and create a low-cost method to liquidate the claims against the Debtors' estates and then to distribute those assets equally to all similarly-situated creditors. The Debtors appear to seek to inject an entirely pointless estimation process to set reserves for categories of claims – which can only have the effect of creating dissimilar recoveries for similarly-situated unsecured claims – and then resolve the individual claims within those categories later. This process offers no benefits whatsoever over the procedure the Debtors *should* follow that would allow a rapidly confirmed plan that avoids the needless litigation – and attendant expense – that the Debtors invite with this Motion.

5. To maximize recoveries for all stakeholders and to minimize needless litigation costs, the Debtors should liquidate their assets as contemplated by the proposed sale procedure, and then propose and confirm a plan that places the proceeds of that sale and all causes of action possessed by the Debtors into a liquidating trust. The liquidating trust, under the control of the actual parties in interest in these cases, would enable the creditors to agree on the best method to liquidate the myriad litigation claims against the Debtors arising from their wrongful and criminal conduct, and to litigate the claims that the Debtors may have against third parties for the benefit of the Debtors' creditors. Following this process, the liquidating trust can distribute its assets to the creditors of the estates *pro rata*. Such an approach (a) eliminates the needless and wasteful litigation that the Debtors seek to cause through this Motion; (b) allows a more rapid exit from Chapter 11, eliminating the attendant fee burn and administrative costs associated with

the Debtors, and (c) enables the actual parties in interest in these cases to negotiate a fair resolution of the issues arising in these cases in an economically rational, cost-effective manner.

FACTUAL BACKGROUND

6. The opioid epidemic is both a public health emergency and a national crisis. Millions of people have died from overdoses. Millions more are addicted and suffering from disorders relating to opioid use or other related medical issues. On the global scale, reports have estimated that resolving the opioid crises may cost hundreds of billions to trillions of dollars.

7. As a means to hold those responsible accountable, thousands of lawsuits have been filed across the country by states, cities and counties, Indian tribes, hospitals, union benefit funds, infants with neonatal abstinence syndrome, individual personal injury claimants, and countless others. The general allegations of these suits are that (i) manufacturers of prescription opioids overstated the benefits and hid the risks in using the drugs and used aggressive, deceptive marketing strategies directed to the public and through doctors paid to push opioids on patients and (ii) that distributors and retailers failed to monitor, investigate, report or halt suspicious orders of opioids.

8. Beginning in December, 2017 and continuing thereafter, over 1,900 cases have been consolidated in the multidistrict litigation (the “MDL”) currently underway in the United States District Court for the Northern District of Ohio, before Judge Dan Polster (Case No. 17-2804). Estimation and allocation of claims has been one of the major topics at issue in the MDL and all major stakeholders have been pursuing a dual track of settlement and litigation. The majority of the litigation in the MDL has been effectively stayed through case management orders, except for two “tracks” of bellwether trials. The first trial in the MDL, of the Track One bellwether cases brought by Summit County and Cuyahoga County, Ohio, is scheduled to begin

on October 21, 2019 and is expected to last seven weeks. The parties litigating the MDL are actively engaged in fact and expert discovery, and they will soon be required to begin preparation for trial, including drafting direct and cross examinations, fact and expert witness preparation, and various other tasks.

9. While the Debtors' behavior has been reprehensible and criminal, the Debtors are a relatively small component of the overall opioid market and have relatively limited assets. The Debtors filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Delaware on June 10, 2019 (the "Petition Date"), facing massive litigation risk, a plethora of investigations at all levels of government, and increased public scrutiny surrounding the opioid crisis. The Debtors are a specialty pharmaceutical company that develops and commercializes certain drugs and purportedly novel drug delivery systems for targeted therapies to improve patients' quality of life. The Debtors' business focuses on the research and development, manufacture, marketing, and sales in support of these drugs and drug delivery systems. However, in reality the Debtors were far from that of a simple specialty pharmaceutical company. Insys was a criminal enterprise that helped fuel the opioid crisis. Insys made thousands of payments to physicians nationwide, including in Ohio, ostensibly for activities including participating on speakers' bureaus, providing consulting services, assisting in post-marketing safety surveillance and other services, but in fact to deceptively promote and maximize the use of opioids, such as Insys' fentanyl product.

10. The various pending actions against, and other potential liability of, the Debtors related to Subsys, the Debtors' fentanyl product, can be categorized as follows: (1) U.S. Government investigations and U.S. and State Qui Tam litigation, (2) State Attorneys General investigations and litigation, (3) municipality (such as cities and counties) litigation, (4) private

insurance provider litigation, (5) personal injury litigation, (6) securities litigation, (7) Native American tribe litigation, and (8) indemnification claims of officers and directors.

11. Regarding the criminal investigation, Insys' founder was arrested and charged, along with other company executives, with multiple felonies in connection with an alleged conspiracy to bribe doctors to prescribe Subsys and defraud insurance companies. Other Insys executives and managers were previously indicted. In May 2019, Insys' founder and four other top executives were found guilty of racketeering conspiracy charges in a scheme involving bribes and kickbacks to physicians who prescribed large amounts of opioids to patients who didn't need the painkiller. This was the first-ever conviction of a drug company CEO in the federal government's fight to combat the opioid crisis.⁴

12. Also found guilty were: Richard M. Simon, the company's former national director of sales; Sunrise Lee and Joseph A. Rowan, both onetime regional sales directors; and former Vice President of Managed Markets, Michael J. Gurry.

13. The Debtors main product, Subsys, is an opioid pain medication prescribed for the management of breakthrough pain in cancer patients 18 years of age and older who are already receiving and who are tolerant to opioid medication for their underlying persistent cancer pain. This drug contains fentanyl and has been one of the drugs linked to the opioid crisis. According to the Debtors, 90% of its current revenue comes from the sale of opioids, but at their peak they accounted for only 0.03% of the national opioid market. Motion ¶ 19.

⁴ See, e.g., *Insys CEO and execs convicted in opioid case*, PHARMA MANUFACTURING, May 3, 2019 (“This verdict marks the first-ever conviction of a drug company CEO in the government's fight to combat the opioid crisis”), <https://www.pharmamanufacturing.com/industrynews/2019/insys-ceo-and-execs-convicted-in-opioid-case/> (last accessed June 24, 2019).

14. The Debtors have proposed bidding procedures that, if approved, would sell substantially all of their pharmaceutical assets in an auction scheduled for August 2, 2019 approved at a sale hearing on August 19, 2019. *See* Bidding Procedures Motion⁵ ¶ 22.

OBJECTION

15. The Motion fails to explain the precise relief it seeks – specifically, for what purposes estimation is sought and how the Debtors intend to use the estimates that they seek from this Court in a potential plan of reorganization (which will, in fact, be a plan of liquidation). On that basis alone it should be denied: the Debtors should not be permitted to seek to invoke estimation – which necessarily abrogates the due process rights of claimants to the extent it is not merely for voting purposes – without making clear the extent to which those due process rights are abrogated and for what purpose.

16. For the purposes of this Objection, the MDL Plaintiffs have assumed that the Debtors seek to use “claims category” estimation (of State AG Claims; Municipality Claims; Personal Injury Claims; and Private Insurer Claims, as defined in the Motion) to establish the maximum allowable amount of all claims in each category, for the purposes of setting reserves in a forthcoming plan of reorganization that would limit each claim in a particular Claim Category to a *pro rata* share of the reserve for that Claim Category. Liquidation of each claim in each Claim Category would, apparently, be done after the effective date of such a plan. However, *nothing* in the Motion suggests these Claim Categories are composed of fundamentally different types of claims against the Debtors. To the extent that the Debtors adopt a different posture at

⁵ Motion of Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for Sale of Debtors Assets, (B) Scheduling Auction for and Hearing to Approve Sale of Debtors Assets, (C) Approving Form and Manner of Notice of Sale, Auction, and Sale Hearing, (D) Approving Assumption and Assignment Procedures, and (E) Granting Related Relief; and (II)(A) Approving Sale of Debtors Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief (D.I. No. 32).

the hearing on the Motion (the “Hearing”), the MDL Plaintiffs reserve all rights to raise any objections (including timeliness) necessary to respond to such statements at the Hearing.

**A. The Debtors’ Estimation Procedures
Should be Abandoned or Substantially Revised.**

17. Estimation for distribution purposes is required under the bankruptcy code to fix or liquidate “contingent or unliquidated” claims that would cause “undue delay [to] the administration of the case” if they were liquidated. 11 U.S.C. § 502(c). The party moving for estimation bears the burden of proving that “undue delay” exists. *See In re RNI Wind Down Corp.*, 369 B.R. 174, 191 (Bankr. D. Del. 2007).

18. Where undue delay would not be resolved by estimation, estimation (other than for voting purposes) is improper. *See In re Stone & Webster, Inc.*, 279 B.R. 748, 809 (Bankr. D. Del. 2002); *see also In re Dow Corning Corp.*, 211 B.R. 545, 562-3 (Bankr. E.D. Mich. 1997); *In re G-I Holdings, Inc.*, 323 B.R. 583, 599 (Bankr. D.N.J. 2005).

19. Alternatively, a court can estimate claims for the sole purpose of voting on a plan of reorganization. *See Fed. R. Bankr. P.* 3018(a); *see also Matter of Johns-Manville Corp.*, 68 B.R. 618, 631 (Bankr. S.D.N.Y. 1986) (noting broad discretion of bankruptcy court to temporarily allow a claim, and allowing disputed asbestos claims at \$1 for voting purposes).

20. Here, although the Debtors could seek to estimate claims for voting purposes only, they have chosen to seek estimation (though again, only of categories of claims) under 502(c) for purposes of “plan allocation and setting claim distribution reserves” which will necessarily impact the potential recoveries of the creditors in classes so estimated. *See Motion ¶ 7.* The Debtors do not indicate what the structure of their proposed plan that would incorporate these estimates is, why this plan requires the category estimates called for under the Motion, or at what point the Debtors believe they would file a plan.

i. The Estimation Sought In the Motion Is Legally Inappropriate In These Proceedings

21. The Motion should be denied because the Debtors have failed to show (and cannot show) that failure to estimate the categories of claims for distribution purposes as sought in the estimation motion would “unduly delay” the administration of these cases. *See* 11. U.S.C. § 502(c) (estimation required for “any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case[.]”)

22. Here, the Debtors offer no delay that would be reduced by estimation, let alone “undue” delay. The Debtors have no proposed plan (and do not describe one in the Motion) that would be advanced by estimation. Indeed, the Motion proposes a months-long foreseeably contentious and indisputably expensive process, with extensive discovery and a likely battle of experts, that will produce only estimated claim amounts *by category*, which offers no apparent advantages to getting a plan confirmed (and, by creating the near-certainty of non *pro rata* distributions between classes of creditors without any basis for such discrimination, creates new impediments to confirmation of a plan). Further, this plan will cost substantial amounts of money in professional fees on all sides, including that of the Debtors (further depleting the estates). The Debtors could (and should) propose a simple liquidating plan tomorrow, transferring all their assets to a liquidating trust which would reserve the liquidation of claims for a later date, but instead have chosen to file the Motion which inhibits proposing and confirming a plan for months (and requires extensive, costly litigation prior to such a plan – and, further, spends considerable amounts of money before it is determined there are substantial assets left to distribute). That the liquidation of claims might delay distributions to other, liquidated, claims is not a valid basis for estimation, because both types of claims enjoy equal standing as to the Debtors’ assets and are entitled to share *pro rata*. *See In re Dow Corning Corp.*, 211 B.R. 545,

563 (Bankr. E.D. Mich. 1997) (estimation not proper to speed distributions to certain creditors due to need to make *pro rata* distributions); *see also id.* at 567 (noting that there was “almost no likelihood” any estimate of the value of litigation claims would prove accurate).

23. Further, the Debtors will be unable to show any “undue” delay because the Debtors are liquidating: there is no damage to the Debtors’ business operations that must be considered, and a plan can be confirmed without the requested estimation. *See In re Statewide Realty Co.*, 159 B.R. 719, 725 (Bankr. D.N.J. 1993) (there is no undue delay where confirmation is not dependent on resolution of the claim). Accordingly there are no grounds to abridge the due process rights of litigants – and litigants amount to the overwhelming majority of creditors in these cases – because liquidating these claims would not potentially impact ongoing operations of a reorganized debtor, as none will exist. *See Motion* ¶ 1.

24. Additionally, the Debtors have made no showing that this expansive form of claims estimation requested in the Motion is needed rather than more limited forms, such as estimation for voting purposes only, or estimation as to the total amount of all litigating claims (rather than broken down by class), which is grounds for denying the requested relief. *See In re N. Am. Health Care, Inc.*, 544 B.R. 684, 689 (Bankr. C.D. Cal. 2016) (“if the goal of avoiding undue delay can be achieved through a limited mode or form of claim estimation, a bankruptcy court ought not to expand the estimation's scope beyond this limited extent absent compelling reasons to do so”).

25. Finally, this Court may not estimate the Personal Injury Claims because the estimation or liquidation of such claims is outside the statutory authority of the Bankruptcy

Court.⁶ See 28 U.S.C. § 157(b)(2)(B) (bankruptcy court may not estimate or liquidate personal injury or wrongful death claims); § 157(b)(2)(O) (personal injury and wrongful death claims carved out of the “other proceedings” component of the Bankruptcy Court’s jurisdiction). Instead, such cases *must* be tried in a district court – either that in which the claim arose, or the district court in which these bankruptcy cases are proceeding). 28 U.S.C. § 157(b)(5). Where an estimation is claimed to be only for plan purposes but would have the actual impact of affecting distributions, it is considered to be an estimation for distribution purposes subject to the limitations of Section 157. See *In re Roman Catholic Archbishop of Portland in Or.*, 339 B.R. 215, 220-21 (Bankr. D. Or. 2006) (rejecting estimation for purposes of setting reserves for personal injury claims as disguised estimation of the claims for distribution purposes).

26. Because this Court may not estimate the Personal Injury Claims, there is no rational basis to estimate any of the other Claim Categories. Estimating some of the Claim Categories, but not the Personal Injury Claims, means that the Debtors’ apparent plan – to establish reserves for each type of Claim Category in a plan, and liquidate the claims in each Claim Category at a later date – cannot be accomplished. Any attempt to establish such reserves would require Personal Injury Claims to be reserved at based on their full asserted value, while every other claim category was limited to an estimated value, providing reserves for Personal Injury Claims well in excess of those reserved for any other claim (and, implicitly, that such

⁶ Certain courts recognize a right of a Bankruptcy Court to disallow a personal injury claim based on dispositive legal defenses, such as the statute of limitations. See *In re U.S. Lines, Inc.*, 262 B.R. 223, 234 (S.D.N.Y. 2001), *aff’d*, 318 F.3d 432 (2d Cir. 2003) (upholding decision to dismiss personal injury claims based on statute of limitations grounds). The Motion, however, does not appear to seek disallowance of the Personal Injury Claims – merely the estimation of the total allowable amount of all claims, which does not fall under this exception. While the Third Circuit permits litigants to create this jurisdiction by consent through filing a claim, responding to an objection, and seeking a favorable ruling, at this stage of these bankruptcy proceedings the Debtors can hardly claim such jurisdiction has been created. See *In re Tribune Media Co.*, 902 F.3d 384, 393-95 (3d Cir. 2018) (*pro se* claimant consented to jurisdiction of his personal injury claims by filing a proof of claim, filing a response to an objection, filing a supplemental response, and appearing at a hearing, all without objection to court’s jurisdiction).

claims will receive significantly greater *pro rata* distributions than any other litigation claim). An attempt to do so would violate the unfair discrimination test for confirming a plan for any rejecting class (as all other claims would be limited to much lower distributions on account of like claims), and likely violate the “best interests” for any dissenting members of an accepting class. *See* 11 U.S.C. 1129(b)(1) (unfair discrimination test); 1129(a)(7)(A)(ii) (best interests test).

ii. The Estimation Sought in the Motion Would Be Detrimental to the Estates

27. The Debtors, though partly responsible for, and a reprehensible actor in the national opioid crisis who has been accused, and its founder found guilty of, serious criminal charges, are but one of many actors that are responsible for the crisis. In fact, though its criminal conduct was outrageous, the Debtors are a smaller entity when it comes to their prescription numbers and total assets. According to the Debtors, at their peak involvement in the prescription opioid market in 2015, they accounted for only 0.03% of nationwide opioid prescriptions. Motion ¶ 19. On the global scale, reports have estimated that fixing the opioid crises will cost tens to hundreds of billions of dollars.⁷

28. The Debtors expressed three clear objectives they wanted to accomplish in these bankruptcy cases: (i) maximizing the value of their enterprise through exploring sales of their assets and pursuing affirmative causes of action (which can and should be realized for the benefit of the estates through a liquidating trust, rather than by the Debtors themselves); (ii) preserving funds by seeking a stay of burdensome and asset consuming litigation; and (iii) further preserving funds by limiting their time in chapter 11 through estimation of categories of claims

⁷ *See*, Alison Frankel, *Government Officials Put Opioid Defendants in a Squeeze Over Confidentiality* March 14, 2019, <https://www.reuters.com/article/legal-us-otc-opioids/government-officials-put-opioid-defendants-in-a-squeeze-over-confidentiality-idUSKCN1QV2PF>; *see also* Brian Mann, *Opioid-Makers Face Wave of Lawsuits in 2019*, NPR (December 31, 2008, 7:00 AM), <https://www.npr.org/2018/12/31/680741170/opioid-makers-face-wave-of-lawsuits-in-2019>.

to facilitate confirmation of a plan. The estimation procedure as currently contemplated in the Motion stands in direct contradiction to objectives (ii) and (iii) described above. The procedures will guarantee: (ii) expensive and value destructive litigation that is burdensome and asset consuming and (iii) extending the time in which the Debtors stay in Chapter 11.

29. Though interrelated with the national opioid crises and having committed reprehensible and criminal acts, Insys is a relatively small bankruptcy proceeding that will likely produce a relatively small pool of funds to distribute to creditors after the Debtors complete their sales process. As a result, it makes no economic sense to divert these bankruptcy proceedings straight to costly litigation: there are abundant existing procedures and cases where the various parties will litigate issues relevant to these cases (such as the “Phase 1” MDL trials) and duplicating that existing, expensive litigation is unnecessary.⁸ Further, no attempt at consensual allocation discussions between the various creditor groups has been made by the Debtors, and such discussions would be likely to produce a fruitful result at *far less cost* to the estates than the estimation procedure proposed by the Motion.

30. These cases cry out for a reasonable settlement between the various constituencies that (1) enhances, realizes, and preserves the assets of the estates, (2) results in the timely exit of the Debtors from these Chapter 11 cases by way of the creation of a post-confirmation vehicle that will receive and then fairly and equitably distribute those assets and (3) that allows the

⁸ Contemporaneously with the filing of this Objection, there was a hearing in the Opioid MDL on a motion seeking certification of a proposed class of “all United States Cities and Counties” for negotiation purposes. See Plaintiffs’ Notice of Motion and Motion for Certification of Rule 23(b)(3) Cities/Counties Negotiation Class, *In re: National Prescription Opiate Litigation*, No. 17-md-02804-DAP, Docket No. 1683 (setting hearing for June 25, 2019 at noon). At the hearing, counsel to the Plaintiffs requested additional time to resolve certain objections to the negotiation class that they believed could be resolved through additional negotiation and revisions to the motion. The Plaintiffs proposed that they file an amended motion on July 9, objections be filed by July 23, and a hearing on that amended motion occur on August 6. This request was approved without objection by the Court. This potential negotiation class (if approved) may provide another vehicle to facilitate the resolution of a number of the issues sought to be estimated (at considerable cost) in the Motion through a negotiated process in a consensual manner.

affected stakeholders themselves, rather than the liquidating Debtors (whose interest in the estates' assets has effectively passed to their creditors) the ability to arrive at an allocation on their terms rather than to be forced into an unnecessary, premature, expensive and fiercely litigated estimation process.

31. If the Motion, with its fast track process, is granted, however, settlement will rapidly become impossible. The allocation of value between the various Claim Categories may be viewed as relevant to any future bankruptcies or related settlement discussions. Accordingly, to protect their claims against the other 99.97% of the opioid market, each Claim Category in all likelihood will vigorously litigate the estimation procedure called for under the Motion to the fullest extent, *including* appealing any adverse decision – even if such litigation or such appeal will necessarily cost more than the party could hope to recover in this proceeding. *See Beatrice Co. v. Rusty Jones, Inc.*, 153 B.R. 535, 538 (N.D. Ill. 1993) (recognizing, though not deciding, that estimation of claims may raise collateral estoppel issues).

32. Further, the Debtors have inexplicably sought to make settlement even more difficult if the Motion is granted, by virtually eliminating the possibility of settlement prior to the estimation contemplated under the Motion. The Debtors – who, it should not be forgotten, are wrongdoers with criminally convicted officers and directors who fueled the opioid crisis giving rise to the claims they now seek to estimate – propose to submit their own proposed estimates five days after the entry of an order granting the Motion. Motion ¶ 33. The Debtors offer no rationale for injecting themselves in this process in this way, and it is profoundly destructive (and unnecessary). Once such a report is submitted, a party advantaged by that report has every incentive to ensure it is incorporated into an order of this Court, and a party disadvantaged by that report will litigate to ensure it is not; and settlement becomes nearly impossible. Worse,

because the Debtors – who again, are the wrongdoers here – propose to submit this report without the benefit of any party in interest’s opportunity to present evidence or argument, the Debtors essentially propose to declare the baseline by fiat without any input from the actual parties in interest.

33. As a result, the Motion offers no practical benefits and imposes significant (and, if the Debtors’ report is filed, nearly insurmountable) hurdles to settlement of these cases. Like the case of *In re Dow Corning*, estimation here – as it is not needed to confirm a plan – would simply be “a colossal waste of time and money.” *In re Dow Corning*, 211 B.R. at 567.

B. The Debtors’ Requested Relief As To Subordination Should Be Denied.

34. By the Motion, the Debtors also ask this Court to “subordinate all claims seeking penalties, consistent with existing precedent, thus maximizing creditors’ recoveries for actual and compensatory damages.” Motion at ¶ 39. This Court should deny the Debtors’ request as inconsistent with the Bankruptcy Code.

i. There Is No Legal Basis For Subordination

35. The Debtors’ proposed subordination of litigation claims (though the Motion does not specify exactly what the Debtors propose to subordinate) has no basis in the Bankruptcy Code, and runs directly counter to the priority scheme established by Congress in Section 507.

36. The Debtors rest their argument on Section 726 of the Bankruptcy Code, which provides the priority structure for distribution of property of an estate *under Chapter 7 of the Bankruptcy Code*. It simply does not apply to property of estates that are subject instead to Chapter 11, as is the case here. *See, e.g., In re Hyatt*, 509 B.R. 707,721 (Bankr. D.N.M. 2014) (holding that punitive damages claims may not be categorically subordinated under a Chapter 11 plan because “[i]n Chapter 7, but not in Chapter 11, punitive damages claims are subordinated by

statute. To allow a plan proponent to subordinate punitive damages claims categorically to other unsecured claims would . . . contravene the priority scheme set forth in 11 U.S.C. § 507(a).”); *In re Quigley Co.*, 437 B.R. 102, 144 (Bankr. S.D.N.Y. 2010) (citing *United States v. Reorganized C F & I Fabricators of Utah, Inc.*, 518 U.S. 213, 228-29 (1996)) (“Penalty claims are statutorily subordinated to unsecured claims in chapter 7 . . . but there is no comparable subordination of penalty claims under chapter 11.”); *In re Sheldon Transfer & Storage Co.*, No. 89-40514-JFQ, 1992 WL 415377, at *1 (Bankr. D. Mass. Sept. 15, 1992) (“While the Code explicitly provides for the automatic subordination of penalty claims in a chapter 7, there is no such provision applicable to chapter 11 proceedings. . . . The absence of such provision suggests to me that Congress intended to afford different treatment to penalty claims in a chapter 11.”); *see also In re Manhattan Jeep Chrysler Dodge, Inc.*, No. 18-10657, 2019 WL 2158773, at *5 (Bankr. S.D.N.Y. May 15, 2019) (citing *In re Tribune Co.*, 506 B.R. 613, 617 (Bankr. D. Del. 2013)) (rejecting subordination argument based on Section 726 “because section 726 does not apply in a chapter 11 case”); *In re Tribune Co.*, 506 B.R. 613, 617 (Bankr. D. Del. 2013) (finding that Section 726(a) did not apply in a Chapter 11 case so as to allow a late-filed claim); *In re Xpedior Inc.*, 354 B.R. 210 (Bankr. N.D. Ill. 2006) (holding that claims disallowed in a Chapter 11 case should not instead receive subordinated status pursuant to Section 726 because “Section 726 should only be applied to cases under Chapter 7.”).

37. The Debtors contend that the Chapter 7 subordination scheme is nonetheless categorically applicable to Chapter 11 cases pursuant to Section 1129(a)(7), which establishes that, in order for a plan to be confirmed, each holder of a claim or interest in an impaired class must either (i) accept the plan or (ii) receive an amount equal to or greater than the amount such holder would receive in a case under Chapter 7 (known as the “best interests test”).

38. For this proposition, the Debtors rely on dicta in *Owens Corning v. Credit Suisse First Boston*, 322 B.R. 719, 723-24 (D. Del. 2005). In that case, the court was asked to estimate the value of certain claims as of the petition date, including certain pre-petition verdicts and settlements in connection with litigation by certain asbestos claimants. In the process of estimating that value as of the petition date, the court considered that seven different factors may have “skewed” past litigation results, one of which was that “[t]he dollar amounts of verdicts and settlements pre-bankruptcy included, or may have been impacted by, punitive damages or the threat of such damages.” 322 B.R. at 723. That court *was not asked* to subordinate penalty claims, as the Debtors now ask this Court to do, and that court *did not hold* that claims based on punitive damages awards must be so subordinated under Section 726, Section 1129, or any other section of the Bankruptcy Code.

39. Courts that *have* been asked to subordinate penalty claims in a Chapter 11 case based on the purported application of Section 726(a)(4) through the best interests test *have declined to do so*, on the basis that whether the best interests test ever comes to be relevant in a particular case depends upon, among other things, the classification of claims, the degree of acceptance of a plan by creditors, and the value distributed under such plan. *See In re Morande Enters., Inc.*, No. 2:07-cv-498-FtM-29, 2008 WL 4459143, at *5 (M.D. Fla. Sept. 30, 2008) (holding that punitive damages claims could not be subordinated under the best interests test because “[h]ere, each voting holder of an impaired claim approved the plan, and therefore resort to the [best interests test] was not necessary.”); *In re Hyatt*, 509 B.R. at 721 (citing the *Owens Corning* court’s dicta with respect to the application of Section 726(a)(4) through the best interests test, “[t]he Court rejects the rationale that punitive damages claims may be categorically subordinated under a Chapter 11 plan through separate classification and treatment of claims . . .

.”); *see also In re Adelpia Commc’ns Corp.*, 327 B.R. 143, 170 (Bankr. S.D.N.Y. 2005) (noting that the relevance of Section 726(a)(4) in a Chapter 11 case “would turn on a host of other factors incapable of prediction at this time – most notably the degree of acceptances of a reorganized plan by creditors, and the value to be distributed under any chapter 11 plan.”).

40. In asking this Court to subordinate certain claims under the best interests test, the Debtors are proposing that the Court permanently subordinate claims, based on the potential needs of a hypothetical plan that has not even been described. Subordination of litigation claims based on this purported interplay of Sections 726(a)(4) and 1129(a)(7) is improper because, should a hypothetical plan come to pass where the best interests test was not met, the failure to satisfy Section 1129(a)(7) would result only in the inability to confirm the plan, not in subordination of the MDL Litigants’ claims. *See In re Adelpia Commc’ns Corp.*, 327 B.R. at 170. Subordinating these claims at this point, therefore, would require reaching far beyond the boundaries of the best interests test.

41. Indeed, if the Debtors were correct about the application of the best interests test through Section 726(a), there would effectively be a categorical subordination of penalty claims in *every* Chapter 11 case. Not only is this proposition without any explicit support in the Bankruptcy Code, and in contravention of the priority scheme set forth in Section 507(a), but also runs afoul of Supreme Court precedent on the issue. *See United States v. Reorganized C F & I Fabricators of Utah, Inc.*, 518 U.S. 213, 229 (1996) (“[C]ategorical subordination at the same level of generality assumed by Congress in establishing relative priorities among creditors [is] tantamount to a legislative act”); *United States v. Noland*, 517 U.S. 535, 541 (1996) (overturning a Court of Appeals decision that “‘postpetition, nonpecuniary loss tax penalty claims’ are ‘susceptible to subordination’ by their very ‘nature’” and holding that such decision

“runs directly counter to Congress’s policy judgment”). In drafting two separate priority schemes for Chapter 7 and Chapter 11 cases, Congress has determined that different treatment of similar claims may be appropriate in cases under different chapters of the Bankruptcy Code. In particular, penalty claims are subordinated in Chapter 7 cases, and not in Chapter 11 cases. See 11 U.S.C. §§ 507, 726. The Debtors’ proposed backdoor into categorical subordination for penalty claims in Chapter 11 cases is directly in line with the rulings the Supreme Court has overturned. Therefore, the MDL Plaintiffs submit that the Debtors’ request for subordination of litigation claims should be denied.

ii. Subordination is Unnecessary for Confirmation of a Plan

42. Even if the Court agreed that penalty claims could be subordinated, such subordination need not, and should not, be determined at this stage in these cases. Any litigation that occurs prior to plan confirmation, whether in the context of an estimation proceeding or otherwise, depletes the Debtors’ estates and comes directly at the expense of creditor recoveries. Such litigation is likely to far surpass what would otherwise be appropriate for estates of this size, as these cases will almost certainly serve as a bellwether for the slew of other opioid-related bankruptcy cases to come.

43. The MDL Plaintiffs submit that this expense can be minimized or avoided by delaying any such litigation until after confirmation (which, as described above, could be consensual if the Debtors’ value-destructive scheme is curtailed). Should litigation over subordination, or allowance, or any other issue with respect to claims, eventually become necessary in these cases, such litigation could be carried out at a far lesser expense to creditors by a liquidating trust, once the factual background of the opioid cases has been more developed nationally.

44. Further, to the extent it is necessary to bifurcate claims into purported “penalty” components and admitted non-penalty components to confirm a plan under the “best interests” test, such bifurcation can (and must) be done by the plan itself. At that point – if the classification scheme is challenged as improper – the Court will consider and rule upon if the “best interests” test, in these cases, effectively incorporates the subordination provisions of 11 U.S.C. § 726 (and, to the extent necessary, which particular classes of damages would be subordinated – or leave that issue to the stage at which point each claim is liquidated).

45. Therefore, there is no need to waste the Debtors’ resources and this Court’s time with an estimation process on subordination at this juncture, even if such subordination could be granted (which, as described above, it cannot), and therefore the Debtors’ request should be denied.

CONCLUSION

WHEREFORE, for the foregoing reasons, the MDL Plaintiffs respectfully request that the Court: (i) sustain this Objection; (ii) deny the Motion; and (iii) grant the MDL Plaintiffs such other and further relief as is just and proper.

Dated: June 25, 2019
Wilmington, Delaware

BLANK ROME LLP

By: /s/ Victoria A. Guilfoyle
Stanley B. Tarr (DE No. 5535)
Victoria A. Guilfoyle (DE. 5183)
1201 N. Market St., Suite 800
Wilmington, DE 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464
Email: tarr@blankrome.com
guilfoyle@blankrome.com

-AND-

BROWN RUDNICK LLP

David J. Molton (admitted *pro hac vice*)
Kenneth J. Aulet (admitted *pro hac vice*)
Seven Times Square, 47th Floor
New York, NY 10036
Telephone: (212) 209-4800
Facsimile: (212) 209-4801
Email: dmolton@brownrudnick.com
kaulet@brownrudnick.com

-AND-

BROWN RUDNICK LLP

Steven D. Pohl (admitted *pro hac vice*)
One Financial Center
Boston, MA 02111
Telephone: (617) 856-8200
Facsimile: (617) 856-8201
Email: spohl@brownrudnick.com

-AND-

GILBERT LLP

Scott D. Gilbert (admitted *pro hac vice*)
Craig J. Litherland (admitted *pro hac vice*)
1100 New York Ave, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 772-2277
Email: gilberts@gilbertlegal.com
litherlandc@gilbertlegal.com

Special Insolvency Counsel to the MDL Plaintiffs

63434251 v10

EXHIBIT A

/s/Judge Dan Aaron Polster on 1/4/2018

United States District Judge

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

IN RE: NATIONAL PRESCRIPTION)	MDL No. 2804
OPIATE LITIGATION)	
)	Case No. 17-md-02804
)	
THIS DOCUMENT RELATES TO:)	Judge Dan Aaron Polster
)	
ALL CASES)	

**Plaintiffs’ Renewed Motion
to Approve Co-Leads, Co-Liaisons, and Executive Committee**

Pursuant to the Court’s December 21, 2017, Order (Doc. #22), Plaintiffs submit this Renewed Motion to Approve Co-Leads, Co-Liaisons, and Executive Committee. Plaintiffs’ Renewed Motion addresses and resolves all objections to Plaintiffs’ original Motion (Doc. #16) and complies with this Court’s Order (Doc. #22) regarding those objections.

Plaintiffs filed their original Motion to Approve Co-Leads, Co-Liaisons and Plaintiffs’ Executive Committee on December 20, 2017. The Court subsequently requested, and Plaintiffs’ filed, an Amended Motion further describing the function of the proposed leadership structure (Doc. #17). There were three objections to Plaintiffs’ amended motion; one from a group representing hospitals (Doc. #19), one from a group representing Third-Party Payors (TPPs) (Doc. # 20) and a third from a group representing seven governmental entities in southern West Virginia. (Doc. #18). All groups sought inclusion on the Plaintiffs’ Executive Committee.

After reviewing Plaintiffs’ motion and the three objections, the Court issued an order providing the following (Doc. #22):

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

IN RE: NATIONAL PRESCRIPTION)	MDL No. 2804
OPIATE LITIGATION)	
)	Case No. 17-md-02804
)	
THIS DOCUMENT RELATES TO:)	Judge Dan Aaron Polster
)	
ALL CASES)	

**Plaintiffs’ Renewed Motion
to Approve Co-Leads, Co-Liaisons, and Executive Committee**

Pursuant to the Court’s December 21, 2017, Order (Doc. #22), Plaintiffs submit this Renewed Motion to Approve Co-Leads, Co-Liaisons, and Executive Committee. Plaintiffs’ Renewed Motion addresses and resolves all objections to Plaintiffs’ original Motion (Doc. #16) and complies with this Court’s Order (Doc. #22) regarding those objections.

Plaintiffs filed their original Motion to Approve Co-Leads, Co-Liaisons and Plaintiffs’ Executive Committee on December 20, 2017. The Court subsequently requested, and Plaintiffs’ filed, an Amended Motion further describing the function of the proposed leadership structure (Doc. #17). There were three objections to Plaintiffs’ amended motion; one from a group representing hospitals (Doc. #19), one from a group representing Third-Party Payors (TPPs) (Doc. # 20) and a third from a group representing seven governmental entities in southern West Virginia. (Doc. #18). All groups sought inclusion on the Plaintiffs’ Executive Committee.

After reviewing Plaintiffs’ motion and the three objections, the Court issued an order providing the following (Doc. #22):

- The Court has “not decided whether to keep non-government cases in this MDL, and if so, whether to create separate tracks.”
- Accordingly, the leadership team should include at least one attorney handling Third-Party Payor cases and one attorney handling Hospital cases.
- There should also be no more than one person from any one law firm on the Executive Committee.

Plaintiffs’ counsel from across the country subsequently worked diligently to create an organizational structure that addressed and resolved the three objections and comports with the Court’s Order. They are pleased to represent that they have done so and there is general consensus regarding the designation of Co-Leads, Co-Liaisons, and an Executive Committee. Each of the objecting groups now has representation on the Plaintiffs’ Executive Committee outlined in this Renewed Motion. Specifically, pursuant to the Court’s Order, the proposed Plaintiffs’ Executive Committee now includes several additional members including: (1) an additional member designated to exclusively represent the interests of Third-Party Payor cases, James R. Dugan, II; (2) an additional member designated to exclusively represent the interests of hospitals, Don Barrett; (3) and a representative from the third group to file an objection, James Young of MORGAN & MORGAN. The proposed PEC has also been revised to include no more than one person from any one law firm.

THE ORGANIZATION AND NOMINATION PROCESS

The process by which the proposed leadership structure was selected has been fair, open and transparent. The Judicial Panel on Multidistrict Litigation ordered that the nationwide federal court cases proceed in MDL 2804 on December 5, 2017. Following that order, counsel with docketed cases from around the United States began discussing a leadership structure. The proposed leadership slate that came out of

these discussions included attorneys representing the vast majority of the filed cases from across the country, counsel with extensive trial and resolution experience, and counsel with decades of leadership experience in MDL proceedings.

So that the process could be as inclusive as possible and the proposed nominations could be shared with all counsel of record in opiate litigation, an invitation was sent to all counsel of record for the plaintiffs to attend a caucus on December 18, 2017, in Cleveland, Ohio. The meeting was attended by 150 lawyers from 97 law firms (attendance roster attached as Appendix A), and 191 of the 206 docketed opiate cases were represented in person by at least one counsel of record. At the meeting, nominations were made for co-leads, co-liaison, and plaintiff's executive committee in the form of the proposed slate that had been discussed and developed in the weeks following the JPML order. A motion was made from the floor to adopt the slate, and was seconded. A voice vote was called and the slate was approved with yeas. No nays were voiced during the vote. No other candidates were proposed. Subsequently, a motion to approve the proposed leadership discussed at the meeting was submitted to this Court on December 20, 2017.

After Plaintiffs' original Motion was submitted, three objections were filed. The Court subsequently entered an Order (noted above) addressing those objections. Since that time, Plaintiffs' counsel have addressed and resolved those objections, including adding additional attorneys to the Plaintiffs' Executive Committee from each of the objecting groups.

Thus, movants have complied with the Court's Order, have resolved all objections, and now submit this renewed motion to the Court.

ORGANIZATION

The undersigned are acutely aware of the magnitude of this litigation and have strived to propose a leadership structure that accounts for and can provide coordination and organization for the various Plaintiffs included in the MDL. The proposed leadership includes a leadership structure with three co-leads and a diverse executive committee to serve as a superstructure and provide oversight for various committees populated from a steering committee.

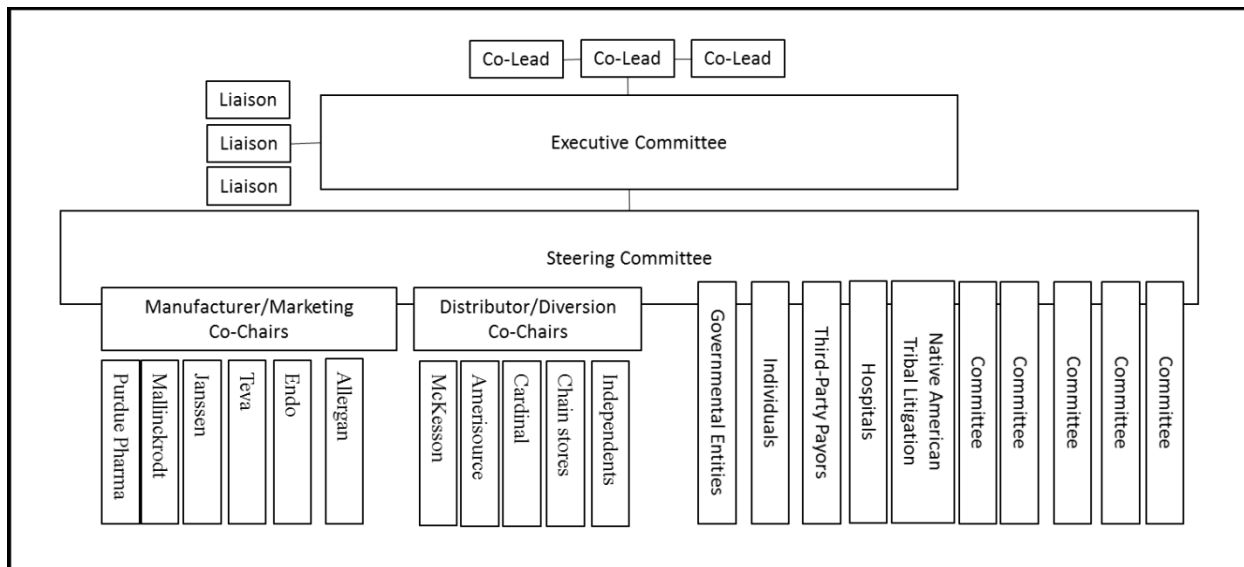
The selection of the three proposed co-leads received unanimous support of counsel of record. Each co-lead brings a combination of experience, expertise and vision while representing a substantial portion of the MDL's case inventory. Likewise, the selection of liaison counsel has received the unanimous support of counsel of record and each is well known to the Court.¹

Plaintiffs believe a Plaintiffs' Executive Committee (PEC) is necessary to coordinate, organize and effectively litigate an MDL of this magnitude. Counsel attending the December 18 caucus approved Plaintiffs' proposal of selecting a Plaintiffs' Executive Committee (PEC) before appointing a steering committee. Plaintiffs believe this is a necessary and critical initial step to provide the PEC with the flexibility to build a leadership infrastructure to respond to the demands of this litigation.

¹ Troy Rafferty is a partner in the law firm of LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY AND PROCTOR and served as Co-Lead Counsel in the *In re: Gadolinium Based Contrast Action Litigation* (MDL No. 1909). Mr. Rafferty has been nominated as one of the three co-liaisons for the Executive Committee. Because his law partner Peter Mougey has been nominated to serve on the Plaintiffs' Executive Committee, and due to the Court's directive that no more than one person from any one law firm serve on the Executive Committee, plaintiffs and Mr. Rafferty request that he be permitted to serve as co-liaison counsel in an *ex officio* capacity to the Executive Committee.

Plaintiffs ask that the Court approve this leadership structure and allow that leadership structure to create and organize a Plaintiffs’ Steering Committee to carry out the work of the litigation.

Generally, Plaintiffs’ proposed organizational structure is envisioned as follows:



Plaintiffs’ counsel concur with the JPML’s observation in the *Transfer Order* that “the transferee judge might find it useful ... to establish different tracks for the different types of parties or claims.” MDL 2804 *Transfer Order* (Doc. 328). It is anticipated that separate tracks may be necessary to address:

- (1) Marketing claims directed at the manufacturer defendants, a group of at least seven separate corporate defendants,² and

² The manufacturing defendants are: (a) Purdue Pharma L.P., Purdue Pharma, Inc. and The Purdue Frederick Company, Inc.; (b) Mallinckrodt PLC and Mallinckrodt LLC; (c) Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; (d) Teva Pharmaceuticals Industries, Ltd., Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC and Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; (e) Endo Health Solutions Inc. and Endo Pharmaceuticals, Inc.; and (f) Allergan PLC f/k/a Actavis PLS.

- (2) Diversion claims directed at the manufacturer defendants and distributor defendants, the latter group including at least three different corporate defendants and two categories of smaller market defendants.³
- (3) Third Party Payor claims
- (4) Hospital claims
- (5) Individual claims
- (6) Tribal claims
- (7) Client committees (for example, the Government Entity Committee) suggested by the Court.

Under each of the Steering Committee tracks, Plaintiffs anticipate forming additional working groups to give multiple voices representation in decision making. The court or lead counsel may task committees with preparing briefs or conducting portions of the discovery program, for example. Manual for Complex Litigation (Fourth) § 10.221 (2004).

Once Co-Lead Counsel, Co-Liaison Counsel and a Plaintiffs' Executive Committee has been approved then that leadership structure will move to populate the various committees and subcommittees with counsel from around the United States.

LEADERSHIP NOMINATIONS

We recognize that this is uniquely demanding litigation, with the health and safety of hundreds of thousands of Americans, and the governmental and private entities dedicated to their care, at stake in a crisis that advances daily. Both experience and

³ The distributor defendants are (a) McKesson Corporation; (b) Amerisource Bergen Drug Company; (c) Cardinal Health, Inc., Cardinal Health 110, LLC, Cardinal Health 105, Inc., Cardinal Health 108, LLC, Cardinal Health 112, LLC, Cardinal Health 414, LLC, and Cardinal Health subsidiary The Harvard Drug Group, L.L.C.; (d) Chain store distributors (e.g., CVS Indiana, L.L.C., Rite Aid Of Maryland, Inc. dba Rite Aid Mid-Atlantic Customer Support Center, Inc., Wal-Mart Stores East, LP dba Wal-Mart Pharmacy Warehouse #46, Kroger Limited Partnership II, Walgreen Eastern Co., Inc.); and (e) Independent distributors (e.g., J M Smith Corporation dba Smith Drug Company, H. D. Smith Wholesale Drug Co., Miami-Luken, Inc., The Harvard Drug Group, L.L.C., Anda Pharmaceuticals, Inc., Masters Pharmaceutical, Inc., Keysource Medical, Inc., Generics Bidco I, LLC, Bellco Drug Corp., Qualitest Pharmaceuticals, Inc.).

innovation are essential to this litigation's fair, efficient, and ultimately successful outcome. Accordingly, the credentials of the proposed leadership counsel demonstrate an appropriate and unparalleled diversity of litigation experience. This experience includes not only deep, longstanding, and broad MDL experience, but trial and settlement experience in state court and other non-MDL contexts, including the successful resolution of major mass tort and economic damages litigation. These varied experiences and perspectives will inform and energize this litigation to advance its diligent prosecution and provide the best possible potential for an expeditious and innovative resolution. Diversity of experience, expertise and perspective will be further ensured by the population of a broad, diverse and inclusive plaintiffs' steering committee.

The following attorneys have been nominated to serve as the proposed Co-Lead Counsel, Co-Liaison Counsel and Plaintiffs' Executive Committee and to commit their personal energy and the energies and resources of their firms for the benefit of the Opiate MDL Plaintiffs:

Co-Lead Counsel

Lead Counsel is charged with formulating (in consultation with other counsel) and presenting positions on substantive and procedural issues during the litigation. Typically, they act for the group—either personally or by coordinating the efforts of others—in presenting written and oral arguments and suggestions to the court, working with opposing counsel in developing and implementing a litigation plan, initiating and organizing discovery requests and responses, conducting the principal examination of

deponents, employing experts, arranging for support services, and seeing that schedules are met. Manual for Complex Litigation (Fourth) § 10.221 (2004).

The following individuals are nominated to serve as co-lead counsel to provide leadership for the plaintiffs in MDL 2804:

Paul J. Hanly, Jr. is a founding member of SIMMONS HANLY CONROY LLC (80+ attorneys) headquartered in Alton, Illinois, which has served in leadership roles in *In re Taxotere (Docetaxel) Products Liability Litigation*, MDL No. 2740 (E.D. La. 2016), *In re Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545 (N.D. Ill. 2015), *In re Volkswagen "Clean Diesel"*, MDL 2672 (N.D. Cal. 2015), *In re Syngenta AG MIR162 Corn Litigation*, MDL 2591 (D. Kan. 2015), *In re Lipitor Products Liability Litigation*, MDL 2502 (D.S.C. 2014), *In re DePuy Pinnacle Hip Implant Products Liability Litigation*, MDL 2244 (N.D. Tex. 2012), *In re Propecia (Finasteride) Product Liability Litigation*, MDL 2331 (E.D.N.Y. 2012), *In re Zolofit Products Liability Litigation*, MDL 2342 (E.D. Pa. 2012), *In re Pelvic Repair System Products Liability Litigation*, MDL 2325, 2326 & 2327 (S.D. W. Va. 2012), *In re Actos Products Liability Litigation*, MDL 2299 (W.D. La. 2011), *In re DePuy ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio 2010), *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 Litigation*, MDL 2179 (E.D. La. 2010), *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, MDL 2151 (C.D. Cal. 2010), *In re Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL 2100 (S.D. Ill. 2009), *In re Chantix (Varenicline) Products Liability Litigation*, MDL 2092 (N.D. Ala. 2009), *In re Gadolinium-Based Contrast Agents Products Liability Litigation*, MDL 1909 (N.D. Oh. 2008), *In re Zyprexa Products Liability Litigation*, MDL 1596 (E.D.N.Y. 2008), *In re Ephedra Products Liability Litigation*, MDL 1598 (S.D.N.Y. 2008), *In re Bextra and Celebrex Products Liability Litigation*, MDL 1699 (N.D. Cal. 2005) and *In re Terrorist Attacks on September 11, 2001* (S.D.N.Y. 2002). Mr. Hanly is lead counsel of record for 40+ docketed cases in MDL 2804 and widely recognized by his peers as a pioneer and authority regarding the marketing claims directed against the manufacturers.

Joseph F. Rice is a founding partner of MOTLEY RICE LLC (100+ attorneys) headquartered in Mount Pleasant, South Carolina, whose attorneys have served in leadership roles in *In re Ethicon Physiomesch Flexible Composite Hernia Mesh Prods. Liab. Litig.*, 254 F. Supp. 3d 1381 (J.P.M.L. 2017); *In re Chrysler-Dodge-Jeep Ecodiesel Mktg., Sales Pracs. & Prods. Liab. Litig.*, MDL No. 2777, 2017 WL 1282901 (J.P.M.L. Apr. 5, 2017); *In re Atrium Med. Corp. C-QUR Mesh Prods. Liab. Litig.*, 223 F. Supp. 3d 1355 (J.P.M.L. 2016); *In re Johnson & Johnson Talcum Powder Prods. Mktg., Sales Pracs. & Prods. Litig.*, No. 16-7891, 2017 WL 4570289 (D.N.J. Oct. 12, 2017); *In re KBR, Inc., Burn Pit Litig.*, 925 F. Supp. 2d 752 (D. Md. 2013); *In re 21st Century Oncology Customer Data Sec. Breach Litig.*, 214 F. Supp. 3d 1357 (J.P.M.L. 2016); *In re Viagra (Sildenafil Citrate) Prods. Liab. Litig.*, 224 F. Supp. 3d 1330 (J.P.M.L. 2016); *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Pros. Liab. Litig.*, 148 F. Supp. 3d 1367 (J.P.M.L. 2015); *In re Power Morcellator Prods. Liab. Litig.*, 140 F. Supp. 3d 1351

(J.P.M.L. 2015); *In re Bard IVC Filter Prods. Liab. Litig.*, 122 F. Supp. 3d 1375 (J.P.M.L. 2015); *In re Am. Med. Sys., Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012); *In re Ethicon, Inc. Pelvic Repair Sys. Prods. Liab. Litig.*, MDL No. 2327, 2014 WL 505234 (S.D.W.Va. Feb. 5, 2014); *In re C.R. Bard, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, MDL No. 2187, 2015 WL 1641343 (J.P.M.L. Apr. 7, 2015); *In re Boston Sci. Corp. Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2326, 2014 WL 1329944 (S.D.W.Va. Mar. 31, 2014); *In re Gen. Motors LLC Ignition Switch Litig.*, 80 F. Supp. 3d 521 (S.D.N.Y. 2015); *In re Lipitor (Atorvastatin Calcium) Mktg., Sales Prac. & Prods. Liab. Litig. (No. II)*, MDL No. 2502, 2015 WL 7769022 (J.P.M.L. June 8, 2015); *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mex., on Apr. 20, 2010*, 731 F. Supp. 2d 1352 (J.P.M.L. 2010); *In re Asbestos Prods Liab. Litig.*, 614 F. Supp. 2d 550 (E.D.Pa. 2009); *In re Terrorist Attacks on Sept. 11, 2001*, 295 F. Supp. 2d 1377 (J.P.M.L. 2003); *In re Welding Fume Prods. Liab. Litig.*, No. 1:03-CV-17000, 2010 WL 7699456 (N.D. Ohio June 4, 2010); *In re Hum. Tissue Prods. Liab. Litig.*, 255 F.R.D. 151 (D.N.J. 2008); *In re Nat'l Sec. Agency Telecomms. Recs. Litig.*, 564 F. Supp. 2d (N.D. Cal. 2008); *In re Kugel Mesh Hernia Patch Litig.*, 493 F. Supp. 2d 1371 (J.P.M.L. 2007); *In re DePuy Orthopaedics, Inc. ASR Hip Implant Prods. Liab. Litig.*, 753 F. Supp. 2d 1378 (J.P.M.L. 2010); *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Prods. Liab. Litig.*, MDL Docket No. 3:11-MD-2244-K, 2014 WL 3557345 (N.D. Tex. July 18, 2014); *In re Avandia Mktg., Sales Prac. & Prods. Liab. Litig.*, 543 F. Supp. 2d 1376 (J.P.M.L. 2008); *In re Medtronic, Inc., Sprint Fidelis Leads Prods. Liab. Litig.*, 536 F. Supp. 2d 1375 (J.P.M.L. 2008); *In re Trasyol Prods. Liab. Litig.*, No. 08-MD-1928, 2013 WL 1192300 (S.D. Fla. Mar. 22, 2013); *In re Levaquin Prods. Liab. Litig.*, MDL No. 1943, 2014 WL 11395078 (D. Minn. Nov. 21, 2014); *In re NuvaRing Prods. Liab. Litig.*, 572 F. Supp. 2d 1382 (J.P.M.L. 1964); *In re Digitek Prods. Liab. Litig.*, 648 F. Supp. 2d 795 (S.D.W.Va. 2009); *In re Hydroxycut Mktg. & Sales Prac. Litig.*, 810 F. Supp. 2d 1100 (S.D. Cal. 2011); *In re Zicam Cold Remedy Mktg., Sales Prac. & Prods. Liab. Litig.*, No. 09-md-2096 PHX-FJM, 2010 WL 3402490 (D. Ariz. Aug. 26, 2010); *In re Zoloft (Sertraline Hydrochloride) Prods. Liab. Litig.*, 26 F.Supp.3d 449 (E.D.Pa. 2014). *In re A.H. Robins Co., Inc., "Dalkon Shield" IUD Prods. Liab. Litig. (No. II)*, 610 F.Supp. 1099 (J.P.M.L. 1985); *In re San Juan DuPont Plaza Hotel Fire Litig.*, No. MDL 721, 1989 WL 168401 (D.P.R. Dec. 2, 1988); *In re Showa Denko K.K. L-tryptophan Prods. Liab. Action*, 953 F.2d 162 (4th Cir. 1992); *In re Xarelto (Rivaroxaban) Prods. Liab. Litig.*, MDL 2592, 2017 WL 3188456 (E.D.La. May 21, 2017); *In re Temporomandibular Joint (TMJ) Implants Prods. Liab. Litig.*, 844 F. Supp. 1553 (J.P.M.L. 1994); *In re Bridgestone/Firestone, Inc. Tires Prods. Liab. Litig.*, 659 F. Supp. 2d 1371 (J.P.M.L. 2009); *In re Ford Motor Co. E-350 Van Prods. Liab. Litig. (No. II)*, Civ. No. 03-4558 (HAA), 2008 WL 4126264 (D.N.J. Sept. 2, 2008). Mr. Rice is counsel of record in the *City of Chicago* case docketed in MDL 2804 and is recognized as a skillful and innovative negotiator of complex litigation settlements, having served as the lead negotiator in some of the largest civil actions our courts have seen in the last 20 years including serving as the lead private counsel in the negotiation of the States Master Tobacco Settlement and more recently the co-lead negotiator in the BP Deepwater Horizon settlement and the Volkswagen Clean Diesel Economic class in MDL 2672.

Paul T. Farrell Jr. is a partner in the law firm GREENE KETCHUM, FARRELL, BAILEY & TWEEL, LLP (5 attorneys) in Huntington, West Virginia, and served in a leadership role in *In re Pelvic Repair System Products Liability Litigation*, MDL 2325, 2326 & 2327 (S.D. W. Va. 2012) including serving as trial counsel in a \$2 million dollar bellwether verdict in *In re C.R. Bard, Inc.*, 810 F.3d 913, 917 (4th Cir. 2016) and an \$18.5 million bellwether verdict in 4 consolidated cases in *Campbell v. Boston Sci. Corp.*, 2016 WL 5796906, at *19 (S.D.W. Va. Oct. 3, 2016) (No. 2:12-CV-08633) (appeal pending). Mr. Farrell is lead counsel of record for 100+ docketed cases in MDL 2804 on behalf of governmental entities from 11 states and widely recognized by his peers as a pioneer of and authority on the diversion claims directed against the manufacturers and distributors.

Plaintiffs' Executive Committee

A plaintiffs' executive committee (PEC) is proposed to assist and advise lead counsel in the massive undertaking of coordinating and conducting pre-trial proceedings. The size of the executive committee is intended to achieve efficiency and economy without jeopardizing fairness to the parties. Manual for Complex Litigation (Fourth) § 10.221 (2004). Importantly, the PEC is charged with the task of forming and populating sub-committees to carry out a comprehensive litigation plan and ensure oversight, accountability and coordination between the tracks of litigation. The PEC is vital to ensuring the functional success of this litigation.

Don Barrett is the founder of Barrett Law Group, P.A., a 7-attorney law firm in Lexington, Mississippi, which specializes in pharmaceutical, consumer fraud, mass tort, and RICO litigation around the nation. His firm has served in leadership positions in the following MDLs: *In re: Bridgestone/Firestone, Inc., Tires Products Liability Litigation*, MDL No. 1373 (S.D. Ind.), *In re: Inter-Op Hip Prosthesis Liability Litigation*, MDL No. 1401 (N.D. Ohio), *In re: Welding Fume Litigation*, MDL No. 1535 (N.D. Ohio), *In re: Neurontin Marketing and Sales Practices Litigation*, MDL No. 1629 (D. Mass.), *In re: High Sulfur Content Gasoline Products Liability Litigation*, MDL No. 1632 (E.D. La.), *In re: Automotive Parts Antitrust Litigation*, MDL No. 2311 (E.D. Mich.), *In re: Target Corporation Customer Data Security Breach Litigation*, MDL No. 14-2522 (D. Minn.), and *In re: Coca-Cola Products Marketing and Sales Practices Litigation*, MDL No. 14-0255 (N.D. Cal.). Mr. Barrett is lead counsel in the class action lawsuit on behalf of U.S. hospitals pending in this MDL No. 2804. He represents an additional twenty-five (25) hospitals and with his team has been asked by three different major hospital chains to provide a damages assessment as they consider joining in the class action. The Barrett firm is also co-counsel of record in one third-party payer case, filed in the Northern

District of Ohio and now part of MDL No. 2804. Mr. Barrett has an active practice in actually trying lawsuits, having tried major cases through successful jury verdicts in California, Illinois, Massachusetts, Tennessee, and Mississippi.

Elizabeth Cabraser is a founder of LIEFF CABRASER HEIMANN & BERNSTEIN, LLP (75+ attorneys) with main offices headquartered in New York, San Francisco and Nashville, which has served in leadership roles in *In re Chrysler-Dodge-Jeep Ecodiesel Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2777 (N.D. Cal.), *In re: Volkswagen "Clean Diesel" MDL*, MDL No. 2672 (N.D. Cal.), *In re Oil Spill By the Oil Rig "Deepwater Horizon" In the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 (E.D. LA.), *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2151 (C.D. Ca.), *In re Chase Bank USA "Checkloan" Contract Litigation*, MDL No. 2032 (N.D. Ca.), *In re Yamaha Motor Corp. Rhino ATV Products Liability Litigation*, MDL No. 2016 (W.D. Ky.), *In re ConAgra Peanut Butter Products Liability Litigation*, MDL No. 1845 (N.D. Ga.), *In re Guidant Defibrillators Products Liability Litigation*, MDL No. 1708 (D. Minn.), *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D.La.), *In re Bextra/Celebrex Products Liability Litigation*, MDL No. 1699 (N.D.Ca.), *In re Tri-State Crematory Litigation*, MDL No. 1467 (N.D. Ga.), *In re Baycol Products Liability Litigation*, MDL No. 1431 (D. Minn.), *In re Bridgestone/Firestone Tires Products Liability Litigation*, MDL No. 1371 (S.D. Ind.), *In re Providian Financial Corp. Credit Card Terms Litigation*, MDL No. 1301 (E.D. Pa.), *In re American Family Publishers Business Practices Litigation*, MDL No. 1235 (D.N.J.), *In re Diet Drugs Products Liability Litigation*, MDL No. 1203 (E.D. Pa.), *Castano v. American Tobacco*, No. 94-1044 (N.D. La.), *In re Telectronics Pacing Systems, Inc. Accufix Atrial "J" Leads Products Liability Litigation*, MDL No. 1057 (S.D. Ohio), *Roberts v. Bausch & Lomb* (N.D. Ala.) *In re Felbatol Products Liability Litigation*, MDL No. 1048 (N.D. Cal.), *In re Copley Pharmaceutical, Inc. "Albuterol" Products Liability Litigation*, MDL No. 1013 (D. Wyo.), *In re General Motors Corporation Pickup Truck Fuel Tank Products Liability Litigation*, MDL No. 961 (E.D. Pa.), *In re Sears Automotive Center Consumer Litigation*, Civ. No. C-92-2341-RHS (N.D. Cal.), *In re Silicone Gel Breast Implants Products Liability Litigation*, MDL No. 926 (N.D. Ala.), *In re Cordis Pacemaker Product Liability Litigation*, MDL No. 850 (S.D. Ohio), *In re Precious Metals Securities Litigation*, MDL No. 904 (C.D. Cal.), *In re First Capital Investment Product Litigation*, MDL No. 901 (C.D. Cal.), *In re First American Center Partnerships Securities Litigation*, MDL No. 868 (S.D.N.Y.), *In re Air Disaster Near Honolulu, Hawaii on February 24, 1989*, MDL No. 807 (N.D. Cal.), *In re First Commodity Corp. of Boston Customer Accounts Litigation*, MDL No. 713 (D. Mass.), *In Re: Navistar Maxxforce Engines Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2590 (N.D. Ill.), *In re: Whirlpool Corp. Front-Loading Washer Litig.*, MDL No. 2001 (N.D. Ohio), *In re: Capital One TCPA Litig.*, MDL No. 2416 (N.D. Ill.), *In re: Imprelis Herbicide Litig.*, MDL No. 2281 (E.D. Pa.), *In re: Mercedes-Benz Tele Aid Contract Litig.*, MDL No. 1914 (D.N.J.), *Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation*, MDL No. 2441 (D. Minn.), *In re Zimmer Durom Hip Cup Products Liability Litigation*, MDL No. 2158 (D.N.J.), *Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL 2100 (S.D. Ill), *DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio), *In re Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation*, MDL 1905 (D. Minn.), *In re: Guidant Corp.*

Implantable Defibrillators Products Liability Litigation, MDL 1708 (D. Minn.), *Ortho Evra Products Liability Litigation*, MDL 1742 (N.D. Ohio) and *In re: Neurontin Marketing, Sales Practices, and Products Liability Litigation*, MDL Docket No. 1629 (D. Mass.). Ms. Cabraser is lead counsel of record in docketed cases in MDL 2804 including a national class action filed on behalf of third-party payors.⁴ Ms. Cabraser has over four decades of experience in pharmaceutical and medical device, product liability, financial and consumer fraud, mass tort, RICO, and human rights litigation in federal and state courts. Ms. Cabraser speaks and writes extensively on multidistrict litigation and class action issues (most recent publication, “The Participatory Class Action”, 92 NYU L. Rev. 846, October 2017) and on the advancement of women in the profession, and teaches complex litigation and class action law at Berkeley and Columbia Law Schools.

James E. Cecchi is a partner of CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C. (31+ attorneys) with offices in Roseland, New Jersey. The firm is unique in that it specializes in both plaintiffs’ class-action litigation as well as complex commercial litigation on the defense side. Its founding partner is the former two term Governor of the State of New Jersey. Mr. Cecchi, a former Federal Prosecutor, heads the firm’s complex litigation practice, and has been honored to serve as lead, co-lead, liaison, and committee member in the following multidistrict litigations: *In re FieldTurf Artificial Turf Mktg. and Sales Practices Litig.*, MDL No. 2779 (D.N.J.); *In re Invokana (Canagliflozin) Prods. Liab. Litig.*, MDL No. 2750 (D.N.J.); *In re Liquid Aluminum Sulfate Antitrust Litig.*, MDL No. 2687 (D.N.J.); *In re Volkswagen “Clean Diesel” Mktg., Sales Practices and Prods. Liab. Litig.*, MDL No. 2672 (N.D. Ca.); *In re Takata Airbag Prods. Liab. Litig.*, MDL No. 2599 (S.D. Fla.); *In re Caterpillar, Inc., C13 And C15 Engine Prods. Liab. Litig.*, MDL 2540 (D.N.J.); *In re AZEK Building Products, Inc., Mktg. & Sales Practices Litig.*, MDL 2506 (D.N.J.); *In re Rail Freight Fuel Surcharge Antitrust Litig.*, MDL No. 1969 (D.D.C.); *In Re: Vytorin/Zetia Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 1938 (D.N.J.); *In Re: Elk Cross Timbers Decking Mktg., Sales Practices And Prods. Liab. Litig.*, MDL No. 2577 (D.N.J.); *In re Aetna UCR Litig.*, MDL 2020 (D.N.J.); *In Re: L’Oreal Wrinkle Cream Mktg. Practices Litig.*, MDL 2415 (D.N.J.); *In Re: Tropicana Orange Juice Mktg. & Sales Practices Litig.*, MDL 2353 (D.N.J.); *In Re Simply Orange Orange Juice Mktg. & Sales Practices Litig.*, MDL No. 2361 (W.D.Mo.); *In re: Lipitor Antitrust Litig.*, MDL No. 2332 (D.N.J.); *In Re: Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1938 (D.N.J.); *In Re: Fosamax Femur Litig.*, MDL No. 2243 (D.N.J.); *In Re: Vehicle Carrier Services Antitrust Litig.*, MDL 2471 (D.N.J.); *In re Mercedes-Benz Tele-Aid Contract Litig.*, MDL No. 1914 (D.N.J.); *In Re: Merck & Co., Inc. Securities, Derivative & “ERISA” Litigation*, MDL No. 1658 (D.N.J.). Mr. Cecchi is counsel of record in cases on behalf of the City of Irvington, New Jersey and Bloomfield Township, New Jersey. He is also counsel to a number of significant cities and counties which are preparing pleadings to be filed in connection with this litigation including Camden County, New Jersey, Essex County, New Jersey and Jersey City, New Jersey. Collectively these clients represent 1.5 million citizens effected by the Opioid crisis. Mr. Cecchi has 27 years’ experience in complex commercial litigation (both prosecution and defense), patent, pharmaceutical

⁴ See *American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan v. Purdue Pharma L.P. et al.*, Civil Action No. 1:17-cv-2585 (N. D. Ohio).

and medical device, product liability, securities fraud (both prosecution and defense), consumer fraud, mass tort, and RICO litigation in federal and state courts. Mr. Cecchi speaks regularly on multidistrict litigation and class action issues.

Erin Dickinson is a founding partner of CRUEGER DICKINSON LLC (3 attorneys) located in Milwaukee, Wisconsin, which serves in a leadership role in *In re: Windsor Wood Clad Window Products Liability Litigation*, MDL No. 2688 (E.D. Wis. 2016). Ms. Dickinson is counsel of record in 48 docketed cases in MDL 2804 and represents over 90 counties across 4 states including Wisconsin, Iowa, Indiana, and Minnesota. Ms. Dickinson maintains a national class action practice and has served as co-lead counsel in cases across the United States, most recently obtaining a unanimous jury verdict on behalf of 7000 class members in *Jammal, et. al., v. American Family Insurance Group, et al.*, No. 1:13- CV-437 (N.D. of Ohio 2017).

James R. Dugan, II is the founding partner of The Dugan Law Firm, APLC. Mr. Dugan began his career working with the late Wendell H. Gauthier and the Law Firm of Gauthier, Downing, LaBarre, Beiser & Dean in the areas of class action, mass tort, and complex litigation, beginning with the seminal class action lawsuit filed against the tobacco industry on the basis of nicotine addiction, *Castano v. American Tobacco, et al.* which resulted in a multi-billion settlement. After Mr. Gauthier's untimely death in December of 2001, Mr. Dugan formed the Dugan & Browne Law Firm, the predecessor to The Dugan Law Firm and he continues to specialize in class action and mass tort litigation. Over the years, Mr. Dugan has specialized in the area of complex litigation representing numerous consumers and third party-payors, including Blue Cross of Louisiana and other health insurers in cases against the manufacturers of Synthroid, Fen-Phen, Rezulin, Neurontin, Vioxx, Zyprexa, Bextra/Celebrex, Oxycontin, Ketek, Effexor, Prograf, Skelaxin, Nexium, and Suboxone. Mr. Dugan also represented the Louisiana Attorney General in the Synthroid, Baycol, Rezulin, Vioxx, and Ketek litigations to recoup medical costs the state Medicaid program expended over these drugs. As a result of his demonstrated skill and experience in class action and mass tort practice, Mr. Dugan has been appointed by the court to serve in key leadership positions in a number of large national federal court class actions.

Paul J. Geller is a founding partner of ROBBINS GELLER RUDMAN & DOWD LLP (200+ attorneys in ten offices throughout the country) and managing partner of its Boca Raton, Florida office. He and his firm have served in leadership roles in *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, MDL No. 2785 (D. Kan. filed Apr. 24, 2017); *In re FieldTurf Artificial Turf Marketing and Sales Practices Litigation*, MDL No. 2779 (D.N.J. filed Mar. 1, 2017); *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2777 (N.D. Cal. filed Feb. 9, 2017); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, MDL No. 2752 (N.D. Cal. filed Sept. 28, 2016); *In re Invokana (Canagliflozin) Products Liability Litigation*, MDL No. 2750 (D.N.J. filed Sept. 20, 2016); *In re Liquid Aluminum Sulfate Antitrust Litigation*, MDL No. 2687 (D.N.J. filed Dec. 2, 2015); *In re Treasury Securities Auction Antitrust Litigation*, MDL No. 2673 (S.D.N.Y. filed Sept. 24, 2015); *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal. filed Sept. 23, 2015); *In re National Hockey*

League Players' Concussion Injury Litigation, MDL No. 2551 (D. Minn. filed Apr. 25, 2014); *In re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D. Cal. filed Dec. 23, 2013); *In re Aggrenox Antitrust Litigation*, MDL No. 2516 (D. Conn. filed Dec. 13, 2013); *In re Aluminum Warehousing Antitrust Litigation*, MDL No. 2481 (S.D.N.Y. filed Aug. 7, 2013); *In re Ford Fusion and C-Max Fuel Economy Litigation*, MDL No. 2450 (S.D.N.Y. filed Apr. 3, 2013); *In re Sony Gaming Networks and Customer Data Security Breach Litigation*, MDL No. 2258 (S.D. Cal. filed May 9, 2011); *In re POM Wonderful LLC Marketing and Sales Practices Litigation*, MDL No. 2199 (C.D. Cal. filed Oct. 5, 2010); *In re Apple iPhone 4 Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2188 (N.D. Cal. filed July 15, 2010); *In re Aftermarket Automotive Lighting Products Antitrust Litigation*, MDL No. 2007 (C.D. Cal. filed Oct. 27, 2008); and *In re Aqua Dots Products Liability Litigation*, MDL No. 1940 (N.D. Ill. filed Jan. 25, 2008). Mr. Geller is counsel of record in docketed cases in MDL 2804 representing governmental entities including the largest Counties in Michigan and the City of Phoenix, Arizona, among other municipalities. Mr. Geller is one of the most experienced lawyers in the country in MDL, consumer fraud, and complex class action litigation including having successfully resolved numerous cases brought against pharmaceutical manufacturers and distributors.

Michael J. Fuller is a senior partner and founding member of MCHUGH FULLER LAW GROUP (6 attorneys) located in Hattiesburg, Mississippi. Mr. Fuller is lead counsel for 25 docketed cases in MDL 2804 representing governmental entities across four states as well as the Eastern Band of Cherokee Indians. His law practice has focused on complex medical cases across the eastern United States and has amassed over 300 million dollars in verdicts against some of the largest corporate defendants in America. His firm has successfully handled appeals before State Supreme Courts, the 4th, 5th, and 11th Circuit Courts of Appeal and the United States Supreme Court. Mr. Fuller brings to this litigation his vast experience in corporate law, regulatory law as well as dedicating his elite trial teams to the MDL 2408.

R. Eric Kennedy is a partner at WEISMAN KENNEDY & BERRIS Co., LPA (3 attorneys) in Cleveland, Ohio which has served in leadership roles in *In re: Silicone Gel Breast Implant Products Liability Litigation*, (MDL No. 926), *In re: Air Disaster at New York LaGuardia Airport on March 22, 1992*, (MDL No. 936), *In re: Orthopedic Bone Screws Products Liability Litigation*, (MDL 1014), *In re: Telectronics (cardiac monitoring leads) Pacing Systems, Inc.*, (MDL No. 1057), *In re: Diet Drugs (Phentermine / Fenfluramine / Dexfenfluramine) Products Liability Litigation*, (MDL No. 1203), *In re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation*, (MDL No. 1401), *In re: Welding Fume Litigation*, (MDL 1535), *In re: DePuy ASR Hip Implant Products Liability Litigation*, (MDL 2197) and *In re: Stryker Rejuvenate and ABG-II Hip Implants Products Liability Litigation*, (MDL 2441). Mr. Kennedy is counsel of record in a class action third-party payor case docketed in MDL 2804 and is widely recognized for his litigation expertise and experience in pharmaceutical and medical device liability, medical malpractice and class actions.

Mark Lanier is the founder the LANIER LAW FIRM (53 attorneys) in Houston, Texas which has served in leadership roles in *In re Johnson & Johnson Talcum Powder Prods*,

Mktg., Sales Practices & Prods. Liab. Litig., 3:16-md-02738 (D.N.J.); *In re DePuy Orthopedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 3:11-md-2244 (N.D. Tex.); *In re Actos (Pioglitazone) Prods. Liab. Litig.*, 6:11-md-2299 (W.D. La.); *In re DePuy Orthopaedics, Inc., ASR Hip Implant Prod. Liab. Litig.*, 1:10-md-2197 (N.D. Ohio); *In re Am. Med. Sys., Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, MDL No. 2325 (S.D.W. Va.); *In re Boston Scientific Corp. Pelvic Repair Sys. Prods. Liab. Litig.*, MDL No. 2326 (S.D.W. Va.); *In re Ethicon, Inc., Pelvic Repair Sys. Prods., Liab. Litig.*, MDL No. 2327 (S.D.W. Va.); *In re C. R. Bard, Inc., Pelvic Repair Sys. Prod. Liab. Litig.*, MDL No. 2187 (S.D.W. Va.); *In re Zimmer NexGen Knee Implant Prods. Liab. Litig.*, MDL No. 2272 (N.D. Ill.); *In re Vioxx Mktg., Sales Practices & Prods. Liab. Litig.*, 2:05-md-1657 (E.D. La.); *In re Bextra and Celebrex Mktg., Sales Practices & Prods. Liab. Litig.*, M:05-cv-01699, (N.D. Cal.); *In re Testosterone Therapy Prods. Liab. Litig.*, 1:14-cv-1748 (N.D. Ill.); *In re Biomet M2a Magnum Hip Implant Prods. Liab. Litig.*, 3:12-md-2391 (N.D. Ind.); *In re Yasmin & Yaz (Drospirenone) Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 2100 (S.D. Ill.); *In re Zyprexa Prods. Liab. Litig.*, 04-md-1596 (E.D.N.Y.); *In re Mirena IUD Prods. Liab. Litig.*, 13-md-2434 (S.D.N.Y.); *In re Lipitor (Atorvastatin Calcium) Prods. Liab. Litig.*, 14-mn-2502 (D.S.C.); *In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, 07-md-01871 (E.D. Pa.); *In re Neurontin Mktg. & Sales Practices Litig.*, 04-cv-10981 (D. Mass.); *In re Levaquin Prods. Liab. Litig.*, 08-md-1943 (D. Minn.); *In re Propecia (Finasteride) Prods. Liab. Litig.*, 1:12-md-02331 (E.D.N.Y.); *In re Heparin Prods. Liab. Litig.*, 1:08-hc-60000 (N.D. Ohio); *In re Digitek Prods. Liab. Litig.*, MDL No. 1968 (S.D.W. Va.); and *In re Chantix (Varenicline) Prods. Liab. Litig.*, 2:2009-cv-02039 (N.D. Ala.). Mr. Lanier represents several governmental entities in Texas including Dallas County (Dallas), Tarrant County (Fort Worth) and Travis County (Austin). Mr. Lanier has earned international recognition as an MDL trial lawyer with verdicts exceeding \$13 billion including bellwether trials in the Pinnacle MDL, Actos MDL and multiple Vioxx jury trials.

Peter J. Mougey is a partner with LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY & PROCTOR, PA (40+ attorneys) which has served in leadership roles in *In Re: Asbestos Products Liability Litigation (VI) MDL 875*; *In Re: Breast Implant Products Liability Litigation MDL 926*; *In Re: Amtrak "Sunset Limited" Train Crash in Bayou Canot MDL 1003*; *In Re: Rezulin Products Liability Litigation, MDL 1348*; *In Re: Propulsid Products Liability Litigation MDL 1355*; *In Re: Phenylpropanolamine (PPA) Products Liability Litigation MDL 1407*; *In Re: America Online, Inc., Version 6.0 Software Litigation MDL 1412*; *In Re: Serzone Products Liability Litigation MDL 1477*; *In Re: Baycol Products Liability Litigation MDL 1431*; *In Re: Cisco Systems, Inc., Securities & Derivative Litigation MDL 1527*; *In Re: Welding Fume Products Liability Litigation MDL 1535*; *In Re: Factor VIII or IX Concentrate Blood Products Litigation MDL 986*; *In Re: Diet Drugs (Phentermine/Fenfluramine/ Dexfenfluramine) Products Liability Litigation MDL 1203*; *In Re: Zyprexa Products Liability Litigation MDL 1596*; *In Re: High Sulfur Content Gasoline Products Liability Litigation MDL 1632*; *In Re: Vioxx Products Liability Litigation MDL 1657*; *In Re: Bextra and Celebrex Marketing Sales Practices and Products Liability Litigation MDL 1699*; *Re: Guidant Defibrillators Products Liability Litigation MDL 1708*; *In Re: Medtronic, Inc., Implantable Defibrillators Products Liability Litigation MDL 1726*; *In Re: Fosamax Products Liability Litigation MDL 1789*; *In Re: Ortho Evra Products Liability Litigation MDL 1742*; *In Re: Gadolinium Based Contrast*

Agents Products Liability Litigation MDL 1909; In Re: Trasyol Products Liability Litigation MDL 1928; In Re: Heparin Products Liability Litigation MDL1953; In Re: Digitek Products Liability Litigation MDL 1968; In Re: Yamaha Motor Corp. Rhino ATV Products Liability Litigation MDL 2016; In Re: Chinese Drywall Products Liability Litigation MDL 2047; In Re: Yasmin & Yaz (Drospirenone) Marketing, Sales, and Products Liability Litigation MDL 2100; In Re: Deepwater Horizon (BP) Oil Spill in the Gulf MDL 2179; In Re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation MDL 2197; In Re: LIBOR-based Financial Instruments Antitrust Litigation MDL 2262; In Re: Actos (Pioglitazone) Products Liability Litigation MDL 2299; In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (II) MDL 2243; In Re: Accutane Products Liability Litigation MDL 1626; In Re: Automotive Parts Antitrust Litigation MDL 2311; In Re: Pelvic Repair System Products Liability Litigation MDL 2325, MDL 2326, MDL 2327; In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation MDL2385; In Re: Blue Cross Blue Shield Antitrust Litigation MDL2406; Re: Fresenius GranuFlo/Naturalyte Dialysate Prods. Liability. Litigation MDL 2428; In Re: E.I. Du Pont De Nemours & Co. C-8 Personal Injury Litigation MDL 2433; In Re: Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation MDL 2441; In Re: Testosterone Replacement Therapy Products Liability Litigation MDL 2545; In Re: Benicar (Olmesartan) Products Liability Litigation MDL 2606; and In Re: Bair Hugger Forced Air Warming Devices Products Liability Litigation MDL 2666. Mr. Mougey is counsel of record for 100+ docketed cases in MDL 2804 filed on behalf of governmental entities from 11 states and has 20 years of experience successfully litigating complex, high-profile cases including financial fraud, corporate misconduct, business torts, and securities fraud. He has represented hundreds of governmental entities, including cities, counties, pension plans, public utilities, and hospitals.

Ellen Relkin is of counsel to WEITZ & LUXENBERG, P.C. (100 attorneys) with offices in New York City, Cherry Hill, New Jersey, Detroit, and Los Angeles which has served in leadership roles in *In re: Actos (Plioglitazone) Products Liability Litigation*, MDL 2299; *In re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, MDL 2391; *In re: Cook Medical, Inc., IVC Filters Marketing Sales Practice and Product Liability Litigation*, MDL 2570; *In re: Ethicon, Inc., Power Morcellator Products Liability Litigation*, MDL 2652; *In re: DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, MDL 2197; *In re: Depuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation*, MDL 2244; *In re: Ethicon Physiomesh Flexible Composite Hernia Mesh Products Liability Litigation*, MDL 2782; *In re: Farxiga Products Liability Litigation*, MDL 2776; *In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation*, MDL 1708; *In re: Invokana (Canagliflozin) Products Liability Litigation*, US District Court, New Jersey, MDL 2750; *In re: Ortho Evra Products Liability Litigation*, MDL 1742; *In re: Proton-Pump Inhibitor Products Liability Litigation (No. II)*, MDL 2789; *In re: Seroquel Products Liability Litigation*, MDL 1769; *In re: Stryker LFit V40 Femoral Head Products Liability Litigation*, MDL 2768; *In re: Xarelto (Rivaroxaban) Products Liability Litigation - MDL 2592; In re: Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL 2100; and *In re: Zimmer NexGen Knee Implant Products Liability Litigation*, MDL 2272. Ms. Relkin in counsel of record in 9 docketed

cases in MDL 2804 representing governmental entities including the City of Detroit. Ms. Relkin co-chairs the MDL Roundtable of the Emory Law School Institute for Complex Litigation and Claims and focuses her practice on pharmaceutical and medical device litigation. She recently served as co-lead counsel in *In Re: DePuy Orthopaedics, ASR Hip Implant Products Liability Litigation* in the Northern District of Ohio in 2010.

Lynn Sarko is a partner in KELLER ROHRBACK (72 attorneys) lawyers with offices in five states (Washington, California, Arizona, Montana, New York) which has served in leadership roles in *In re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, MDL No. 2785; *In re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability*, MDL No. 2777; *In re: Liquid Aluminum Sulfate Antitrust Litigation*, MDL No. 2687; *In re: Volkswagen "Clean Diesel" Litigation*, MDL No. 2672; *In re JPMorgan Chase Mortgage Modification Litigation*, MDL No. 2290; *In re Online DVD Rental Antitrust Litigation*, MDL No. 2029; *In re Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation*, MDL No. 1967; *In re Mattel, Inc., Toy Lead Paint Products Liability Litigation*, MDL No. 1897; *In re Delphi Corp.*, MDL No. 1725; *In re Merck & Co., Inc. "ERISA" Litigation*, MDL No. 1658; *In re: Enron Corp.*, MDL No. 1446; *In re: Microsoft Corp. Antitrust Litigation*, MDL No. 1332; *In re IKON Office Solutions, Inc. Securities Litigation*, MDL No. 1318; *In re: Vitamins Antitrust Litigation*, MDL 1285; and *In re Linerboard Antitrust Litigation*, MDL No. 1261. Mr. Sarko is counsel of record in docketed cases in MDL 2804 and represents a TPP, the Arizona Municipal Risk Retention Pool, whose members comprise 76 Arizona cities and towns. Mr. Sarko is a nationally recognized leader in complex litigation and was honored to receive the Trial Lawyers for Public Justice Trial Lawyer of the Year Award for his work on the Exxon Valdez Oil Spill trial team, and was a member of the legal team nominated for the 2016 Nobel Peace Prize for seeking enforcement of the Nuclear Non-Proliferation Treaty on behalf of the Republic of the Marshall Islands.

Hunter J. Shkolnik is a founding partner of NAPOLI SHKOLNIK PLLC (60 attorneys) in New York, New York, which has served in leadership roles in *In Re: Bayer Healthcare LLC and Merial Limited Flea Control Marketing and Sales Practices Litigation* (MDL No.2319); *In Re: Fleet Oral Sodium Phosphate Solutions Litigation* (MDL No. 2066); *In re Flint Water Crisis Litigation* (16-cv-10444); *In Re: Eliquis (Apixaban) Product Liability Litigation* (1:17-md-02754); *In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation* (MDL No. 2385); *In Re: Daily Fantasy Sports Marketing And Sales Practices Litigation* (MDL No. 2677); *In Re: Taxotere (Docetaxel) Products Liability Litigation* (MDL No. 2740); *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation* (MDL No. 2738); *In re: New York Diet Drug (Phentermine, fenfluramine, dexfenfluramine) Products Liability Litigation*; *In Re: New York Sulzer Inter Op Hip and Knee Implant Litigation*; *In Re: Guidant Corp. Implantable Defibrillators Products Liability Litigation* (MDL No. 1708); *In Re: Bausch & Lomb, Inc., Contact Lens Solution Product Liability Litigation* (MDL No. 1785); *In Re: Medtronic, Inc., Sprint Fidelis Leads Product Liability Litigation* (MDL No. 1905); *In Re: Medtronic Inc* (MDL No. 1726); *In Re: PepsiCo. Inc., Bottled Water Marketing and Sales Practices Litigation* (MDL No. 1903); *In Re: Pom Wonderful Sales and Marketing Practices Litigation* (MDL No. 2199); *In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*

(MDL 2151); *In Re: Kaba Simplex Push Button Lock Sales and Marketing Litigation* (MDL No. 2220); *In Re: Nuvaring Products Liability Litigation* (MDL No. 1964); *In Re: Zimmer NexGen Knee Implant Products Liability Litigation* (MDL No. 2272); *In re New Jersey Reglan/Metoclopramide Products Liability Litigation*; *In Re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation* (MDL No. 2244); *In re: Incretin Mimetics Product Liability Litigation* (MDL No. 1331); *In Re: American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* (MDL No. 2325); *In Re: Invokana (Canagliflozin) Products Liability Litigation* (MDL No. 2750); *In re: Opioid Litigation, New York State Coordinated Opioid Proceeding*, (Index No.: 400000/2017); *In re: MTBE (Methyl Tertiary Butyl Ether) Products Liability Litigation* (MDL No. 1358); *In re Rezulin Products Liability Litigation* (MDL No. 1348); *In re: World Trade Center Disaster Site Litigation* (270 F. Supp. 2d 357); *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation* (MDL No. 2775); *In Re: Plavix Product Liability and Marketing Litigation* (MDL No. 24118); *In Re: Proton-Pump Inhibitor Products Liability Litigation* (MDL No. 2789); *Abilify (Aripiprazole) Products Liability Litigation* (MDL No. 2734); *Viagra (Sildenafil Citrate) Products Liability Litigation* (MDL No. 2691); and *Paxil Products Liability Litigation* (MDL No. 1574). Mr. Shkolnik is counsel of record in 11 docketed cases in MDL 2804 representing governmental entities including Cuyahoga County, Ohio. Mr. Shkolnik has a vast amount of experience in managing MDL litigation having served as lead-counsel, on executive committees, as liaison counsel and numerous steering committees involving various drug and other mass torts.

Christopher A. Seeger is a founding member of SEEGER WEISS LLP (25 attorneys) in New York, New York, which has served in leadership roles in *In re German Auto. Mfrs. Antitrust Litig.*, MDL No. 2796 (N.D. Cal.), *In re Proton-Pump Inhibitor Prods. Liab. Litig. (No. II)*, MDL No. 2789 (D.N.J.), *In re FieldTurf Artificial Turf Mktg. and Sales Practices Litig.*, MDL No. 2779 (D.N.J.), *In re Invokana (Canagliflozin) Prods. Liab. Litig.*, MDL No. 2750 (D.N.J.), *In re Volkswagen "Clean Diesel" Mktg., Sales Practices and Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal.), *In re Syngenta AG MIR 162 Corn Litig.*, MDL No. 2591 (D. Kan.), *In re Testosterone Replacement Therapy Prods. Liab. Litig.*, MDL No. 2545 (N.D. Ill.), *In re Caterpillar, Inc., C13 and C15 Engine Prods. Liab. Litig.*, MDL No. 2540 (D.N.J.), *In re Ford Fusion and CMax Fuel Economy Litig.*, MDL No. 2450 (S.D.N.Y.), *In re Stryker Rejuvenate and ABG II Hip Implant Prods. Liab. Litig.*, MDL No. 2441 (D. Minn.), *In re Tylenol (Acetaminophen) Mktg., Sales Practices and Prods. Liab. Litig.*, MDL 2436 (E.D. Pa.), *In re Mirena IUD Prods. Liab. Litig.*, MDL No. 2434 (S.D.N.Y.), *In re Fresenius Granuflo/Naturalyte Dialysate Prods. Liab. Litig.*, MDL No. 2428 (D. Mass.), *In re Simply Orange Juice Mktg. & Sales Practices Litig.*, MDL No. 2361 (W.D. Mo.), *In re National Football League Players' Concussion Injury Litig.*, MDL No. 2323 (E.D. Pa.), *In re Actos (Pioglitazone) Prods. Liab. Litig.*, MDL No. 2299 (W.D. La.), *In re Depuy Orthopaedics, Inc. ASR Hip Implant Prods. Multidistrict Litig.*, MDL No. 2197 (N.D. Ohio), *In re Polyurethane Foam Antitrust Litig.*, MDL No. 2196 (N.D. Ohio), *In re Yasmin and YAZ Mktg., Sales Practices and Prods. Liab. Litig.*, MDL No. 2100 (S.D. Ill.), *In re WellPoint, Inc. Out-of-Network "UCR" Rates Litigation*, MDL No. 2074 (C.D. Cal.), *In re Chinese-Manufactured Drywall Prods. Liab. Litig.*, MDL No. 2047 (E.D. La.), *In re Aetna UCR Litig.*, MDL No. 2010 (D.N.J.), *In re Whirlpool Corp. Front Loading Washer Prods. Liab. Litig.*, MDL No. 2001 (N.D. Ohio), *In re Vytorin/Zetia Mktg. Sales*

Practices and Prod. Liab. Litig., MDL No. 1938 (D.N.J.), *In re Gadolinium-Based Contrast Agents Prods. Liab. Litig.*, MDL No. 1909 (N.D. Ohio), *In re Vonage Mktg. and Sales Practices Litig.*, MDL No. 1862 (D.N.J.), *In re Genetically Modified Rice Litigation*, MDL No. 1811 (E.D. Mo.), *In re Fosamax Prods. Liab. Litig.*, MDL No. 1789 (S.D.N.Y.), *In re Ortho Evra Prods. Liab. Litig.*, MDL No. 1742 (N.D. Ohio), *In re Medtronic, Inc., Implantable Defibrillators Prods. Liab. Litig.*, MDL No. 1726 (D. Minn.), *In re Guidant Corp. Implantable Defibrillators Prods. Liab. Litig.*, MDL No. 1708 (D. Minn.), *In re Vioxx Prods. Liab. Litig.*, MDL No. 1657 (E.D. La.), *In re Zyprexa Prods. Liab. Litig.*, MDL No. 1596 (E.D.N.Y.), *In re IPO Sec. Litig.*, MDL No. 1554 (S.D.N.Y.), *In re Delta Air Lines Inc. "ERISA" Litig.*, MDL No. 1424 (N.D. Ga.), *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, MDL No. 1407 (W.D. Wash.), *In re StarLink Corn Prods. Liab. Litig.*, MDL No. 1403 (N.D. Ill.), *In re Bridgestone/Firestone, Inc. ATX, ATX II and Wilderness Tires Prods. Liab. Litig.*, MDL No. 1373 (S.D. Ind.), *In re Propulsid Prods. Liab. Litig.*, MDL No. 1355 (E.D. La.), *In Re Rezulin Prods. Liab. Litig.*, MDL No. 1348 (S.D.N.Y.) and *In re MCI Non-Subscriber Telephone Rates Litig.*, MDL No. 1275 (S.D. Ill.). Mr. Seeger is counsel of record in docketed cases in MDL 2804 and recently served as co-lead counsel representing approximately 20,000 retired NFL players in litigation against the NFL concerning concussion injuries.

Roland Tellis is a shareholder with BARON & BUDD, P.C. (60 attorneys) headquartered in Dallas, Texas which has served in leadership roles in *In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation*, MDL 2777; *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL 2672; *In Re: Zofran (Ondansetron) Products Liability Litigation*, MDL 2657; *In Re: Fluoroquinolone Products Liability Litigation*, MDL 2642; *In Re: Bard IVC Filters Products Liability Litigation*, MDL 2641; *In Re: Takata Airbag Products Liability Litigation*, MDL 2599; *In Re: Cook Medical, Inc., IVC Filters Marketing, Sales Practices and Products Liability Litigation*, MDL 2570; *In Re: Neomedic Pelvic Repair System Products Liability Litigation*, MDL No. 2511; *In Re: Cook Medical, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2440; *In Re: Coloplast Corp. Pelvic Support Systems Products Liability Litigation*, MDL No. 2387; *In Re: Ethicon, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2327; *In Re: Boston Scientific Corp. Pelvic Repair System Products Liability Litigation*, MDL No. 2326; *In Re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2325; *In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, MDL 2428; *In Re: C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2187; *In Re: Deepwater Horizon (BP) Oil Spill in the Gulf*, MDL 2179; *In Re: Checking Account Overdraft Litigation*, MDL 2036; and *In Re: Methyl Tertiary Butyl Ether (MTBE)*, MDL 1898. Mr. Tellis is counsel of record in 100+ docketed cases in MDL 2804 representing governmental entities across 11 states. Mr. Tellis has more than twenty years of experience in complex, high-profile litigation helping recover more than \$17 billion dollars for his clients involving consumer class actions, financial fraud, business torts, corporate misconduct and securities fraud cases.

James D. Young is a partner in MORGAN & MORGAN (364 attorneys) based in Jacksonville, Florida, which has served in leadership roles in *In re Yahoo! Inc. Customer Data Breach Litigation*, No. 5:16-md-02752 (N.D. Cal.) (filed Sept. 28, 2016); *In re*

Home Depot, Inc., Customer Data Security Litigation, No. 1:14-md-02583-TWT (N.D. Ga.)(filed Dec. 11, 2014); *In re Target Corporation Customer Data Security Breach Litigation*, No. 0:14-md-2522 (D. Minn.)(filed Dec. 24, 2013); *In re Pelvic Repair Systems*, No. 2:12-md-2325 (S.D. WV)(filed Nov. 23, 2011); *In re IVC Filters*, No. 2:15-md-2641 (D. Ariz.)(filed May 18, 2015); *In re Testosterone Replacement*, No. 1:14-cv-1748 (N.D. Ill.)(filed Mar. 28, 2014); *In re Lipitor*, No. 2:14-mn-2502 (D.S.C.) (filed Feb. 20, 2014); *In re Yasmin and Yaz*, No. 3:09-md-2100 (S.D. Ill.) (filed Oct. 1, 2009); *In re Avandia*, No. 2:07-md-1871 (E.D. Pa.) (filed June 11, 2007); *In re Digitek*, No. 2:08-md-1968 (S.D. W. Va.)(filed Aug. 13, 2008); *In re Biomet Hip*, No. 3:12-md-2391 (N.D. Ind.) (filed June 27, 2012); *In re Stryker Rejuvenate Hip Implant*, No. 0:13-md-2441 (D. Minn.) (filed Feb. 19, 2013); *In re Incretin Based Therapies*, No. 3-13-md-2452 (S.D. Cal.) (filed April 5, 2013); *In re Vioxx*, No. 2:05-md-1657 (E.D. La) (filed Oct. 8, 2004); *In re Levaquin*, No. 0:08-md-1943 (D. Minn.) (filed June 16, 2008); *In re Zofran*, No. 1:15-md-2657 (D. Mass.) (filed Oct. 13, 2015); *In re Viagra*, No. 3:16-md-2691 (N.D. Cal.) (filed Dec. 11, 2015); *In re Zolofit*, No. 2:12-md-2342 (E.D. Pa.) (filed Jan. 18, 2012); *In re Trasyolol*, No. 1:08-md-1928 (S.D. Fla.) (Apr. 7, 2008); *In re Nuvaring*, No. 4:08-md-1964 (E.D. Mo.) (filed May 9, 2008). Mr. Young is counsel of record in eight docketed cases (subject to remand) in MDL 2408 filed on behalf of governmental entities in southern West Virginia. Mr. Young previously spent 10 years investigating and litigating pharmaceutical fraud cases as Special Counsel to three Florida Attorneys General and served as co-chair of the Government Plaintiff Committee in the Vioxx Product Liability Litigation (MDL No. 1657).

Co-Liaison Counsel

Traditionally Liaison Counsel is charged with essentially administrative matters, such as communications between the court and other counsel (including receiving and distributing notices, orders, motions, and briefs on behalf of the group), convening meetings of counsel, advising parties of developments, and otherwise assisting in the coordination of activities and positions. Such counsel may act for the group in managing document depositories and in resolving scheduling conflicts. Manual for Complex Litigation (Fourth) § 10.221 (2004).

Peter Weinberger is the managing partner of the firm of SPANGENBERG SHIBLEY & LIBER, LLP located in Cleveland, Ohio. The Spangenberg firm has had a long history of litigation against the pharmaceutical industry beginning with cases involving the drug thalidomide in the 60s and 70s, followed by cases involving the drugs Halcion, Albuterol, and many others. Mr. Weinberger specializes in product liability, medical malpractice, and catastrophic accidents. Mr. Weinberger was liaison counsel in the

Gadolinium Contrast Dyes Products Liability Litigation, MDL No. 1909 (N.D. Ohio), served on the executive committee, and managed the fee committee. He worked with the court and special master extensively in the settlement efforts that helped resolve more than 600 cases. Mr. Weinberger also served on the plaintiffs' steering committee in the *Teflon Product Liability Litigation*, MDL No. 1733, and was on the trial team that presented the class certification issues at trial. Most recently, Mr. Weinberger served on the plaintiffs' executive committee in *Benicar (Olmesartan) Products Liability Litigation*, MDL No. 2606. In addition to his MDL experience, Mr. Weinberger has been recognized for his success as a trial lawyer, having been selected as a fellow in the American College of Trial Lawyers and the International Society of Barristers. He was recently named by "Super Lawyers" publication as one of the Top 10 lawyers in the State of Ohio for 2018.

Steve Skikos is the founding partner of SKIKOS, CRAWFORD, SKIKOS AND JOSEPH, located in San Francisco, with offices in Cleveland and Orange County. The firm focuses on cases against the pharmaceutical industry, and Mr. Skikos has acted as co-lead counsel on national cases, most recently as Co-Lead Counsel appointment by the Honorable David A. Katz in the *In re: DePuy Orthopedics Inc. ASR Hip Implant Prods. Multidistrict Litigation*, MDL No. 2197 (N.D. Ohio) and the *California Coordinated Proceeding Reglan/Metoclopramide Cases Litigation*, JCCP No. 4631, which did not have an MDL. Mr. Skikos has also served before this Court on the Plaintiffs' Executive Committee and Plaintiffs' Steering Committee in *In re: Gadolinium Contrast Dyes Products Liability Litigation*, MDL No. 1909 (N.D. Ohio). Mr. Skikos has been court appointed liaison more than ten times in California Coordinated Proceedings as well as state-federal liaison counsel, including in the *In re: Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2100 (S.D. Illinois).

Troy Rafferty is a partner in the law firm of LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY AND PROCTOR located in Pensacola, Florida. He specializes in litigating mass tort, pharmaceutical and major personal injury cases throughout the country. He has tried and litigated numerous pharmaceutical and mass tort cases. He has been appointed to leadership positions in several MDLs, including to be Co-Lead Counsel in the *In re: Gadolinium Based Contrast Action Litigation* (MDL No. 1909), the Plaintiffs' Steering Committee and as Co-Chair of the Plaintiffs' Discovery Committee in the *In re: Vioxx Products Liability Litigation* (MDL No. 1657), the Plaintiffs' Executive Committee in the *In re: Yamaha Motor Corp. Rhino ATV Products Liability Litigation* (MDL No. 2016), the Plaintiffs' Steering Committee in *In re: Zyprexa Products Liability Litigation* (MDL No. 1596), the Plaintiffs' Steering Committee in *In re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)* (MDL No. 2243), the Plaintiffs' Steering Committee in *In re: Actos (Pioglitazone) Products Liability Litigation* (MDL No. 2299), the Plaintiffs' Steering Committee in *In res Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation* (MDL No. 2428), the Plaintiffs' Executive Committee in the *In re: Benicar Products Liability Litigation* (MDL No. 2606), the Plaintiffs' Executive Committee in the *In re: Abilify Products Liability Litigation* (MDL No. 2734), and the Plaintiffs' Executive Committee in the *In re: Proton-Pump Inhibitor Litigation* (MDL No. 2789).

Having complied with the Court's directives, and having dealt favorably with the objections submitted, plaintiffs respectfully request that the court enter an order approving these appointments.

Respectfully submitted,

s/Peter H. Weinberger
Peter H. Weinberger (0022076)
SPANGENBERG SHIBLEY & LIBER LLP
1001 Lakeside Avenue East, Suite 1700
Cleveland, OH 44114
(216) 696-3232
(216) 696-3924 (FAX)
pweinberger@spanglaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of January 2018, 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/Peter H. Weinberger
Peter H. Weinberger

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

Firm	Full Name
Anapol Weiss	Thomas Anapol
Anapol Weiss	David Senoff
Andrews Thornton Higgins Razmara	Anne Andrews
Andrews Thornton Higgins Razmara	Bradley East
Andrews Thornton Higgins Razmara	Lila Razmara
Andrews Thornton Higgins Razmara	John Thornton
Andrus Anderson	Jennie Anderson
Bailey Javins & Carter	Lee Javins
Baron Budd	Russell Budd
Baron Budd	Roland Ellis
Baron Budd	Burton LeBlanc
Barrett Law Group	Don Barrett
Beasley Allen	Rhon Jones
Beasley Allen	Gibson Vance
Bern & Partners	Joe Cappelli
Blasingame Burch Garrard Ashley PC	Thomas Hollingsworth
Bonsignore LLC	Robert Bonsignore
Branstetter Stranch & Jennings	Gerard Stranch
Brian K Balser Co LPA	Brian Balser
Carella Byrne	Jim Cecchi
Carpenter Lipps & Leland LLP	David Barthel
Carpenter Lipps & Leland LLP	Timothy Bricker
Carson Law Firm	James DeRoche
Cates Mahoney	David Cates
Clifford Law Offices	Rich Burke
Clifford Law Offices	Shannon McNulty
Climaco Wilcox Peca & Garofoli	John Climaco
Cochran Firm	Michael Wright
Cohen & Malad, LLP	Jeff Gibson
Cohen & Malad, LLP	Irwin Levin
Cohen & Malad, LLP	Lynn Toops
Cooper Law Firm	Barry Cooper
Cooper Law Firm	Stuart Smith

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

Crueger Dickinson LLC	Charles Crueger
Crueger Dickinson LLC	Erin Dickinson
Cuneo Gilbert & LaDuca	Jon Cuneo
Czack Law Firm	Michael Czack
DiCello Levitt & Casey	Mark DiCello
Ditrapano Barrett DiPiereo McGinley & Simmons	Rob Bastress
Ditrapano Barrett DiPiereo McGinley & Simmons	Sean McGinley
Douglas & London	Michael London
Dugan Law Firm	Bonnie Kendrick
Fears Nachawati	Matthew McCarley
Ferraro Law	James Ferraro
Ferrer Poirot Wansbrough	Matt Daniel
Fibich Leebron Copeland Briggs	Tommy Fibich
Frank Dudenhefer Law Office	Frank Dudenhefer
Frazer PLC	Roe Frazer
Fulmer Sill	Jim Sill
Gallagher Law Firm	Michael Gallagher
Garson Jonson	Stuart Garson
Gibbs Law Group	AJ de Bartolomeo
Glago Law firm	Mark Glago
Goldenberg Heller & Antognoli P.C.	Ann Callis
Goldenberg Heller & Antognoli P.C.	Thomas Lech
Greene Ketchum Farrell Bailey & Tweel	Paul Farrell
Gustafson Gluek PLLC	Amanda Williams

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

Hagens Berman Sobol Shapiro	Jennifer Connolly
Hagens Berman Sobol Shapiro	Thomas Sobol
Hill Peterson Carper Bee & Deitzler	Aaron Harrah
Hill Peterson Carper Bee & Deitzler	Edison Hill
Hill Peterson Carper Bee & Deitzler	James Peterson
Hill Peterson Carper Bee & Deitzler	Jim Peterson
Hissey Kientz, LLP	David Friend
Hissey Kientz, LLP	Michael Hissey
Hissey Kientz, LLP	Shamus Mulderig
Holland Law Firm	Eric Holland
Isaac Wiles Burkholder & Teetor	Shawn Judge
Kalish Law Firm	Scott Kalish
Karon LLC	Daniel Karon
Keller Rohrback	Derek Loeser
Keller Rohrback	Lynn Sarko
Kelley & Ferraro	John Murphy
Kelley Goldfarb Huck Roth & Riojas	Christopher Huck
Kopelowitz Ostrow Ferguson Weiselberg Gilbert	Robert Gilbert
Kushner Hamed	Phil Kushner
Laborde Earles	Derrick "Digger" Earles
Laborde Earles	David Laborde
Levin Papantonio Thomas Mitchell Rafferty Proctor	Peter Mougey
Levin Papantonio Thomas Mitchell Rafferty Proctor	Mike Papantonio
Levin Papantonio Thomas Mitchell Rafferty Proctor	Troy Rafferty
Lieff Cabraser	Elizabeth Cabraser
Lieff Cabraser	Mark Chalos

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

Lieff Cabraser	Paulina doAmaral
Lockridge Grindal Nauen PLLP	Yvonne Flaherty
McHugh Fuller	Mike Fuller
Meyers & Flowers	Pete Flowers
Mike Moore Law Firm	Mike Moore
Morgan & Morgan	Keith Mitnik
Morgan & Morgan	Greg Stumbo
Morgan & Morgan	John Yanchunis
Morgan & Morgan	James Young
Motley Rice, LLC	Lane Andrae
Motley Rice, LLC	John Herrick
Motley Rice, LLC	Joe Rice
Motley Rice, LLC	Linda Singer
Motley Rice, LLC	Benee Wallace
Napoli Shkolnik PLLC	Joe Ciaccio
Napoli Shkolnik PLLC	Marie Napoli
Napoli Shkolnik PLLC	Paul Napoli
Napoli Shkolnik PLLC	Hunter Shkolnik
Nurenberg Plevin	Jamie Lebovitz
Of Counsel Sanders Phillips Grossman	John Restaino
Plevin & Gallucci	Frank Gallucci

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

Pogust Braslow & Millrood	Harris Pogust
Prince Law Firm	Mark Prince
Robbins Geller Rudman & Dowd	Aelish Baig
Robbins Geller Rudman & Dowd	Mark Dearman
Robbins Geller Rudman & Dowd	Paul Geller
Robins Kaplan LLP	Tara Sutton
Sanders Phillips Grossman, LLC	Victoria Maniatis
Searcy Denney Scarola Barnhart & Shipley	Brenda Fulmer
Seeger Weiss	Chris Seeger
Seif & McNamee	Dale Seif
Simmons Hanly Conroy	Jayne Conroy
Simmons Hanly Conroy	Paul Hanly
Simon Greenstone Panatier Bartlett	Jeffrey Simon
Skikos Crawford Skikos & Joseph	Mark Crawford
Skikos Crawford Skikos & Joseph	Jane Joseph
Skikos Crawford Skikos & Joseph	Steve Skikos
Skinner Law Firm	Laura Davis
Spangenberg Shibley & Liber	Nicholas DiCello
Spangenberg Shibley & Liber	Stuart Scott
Spangenberg Shibley & Liber	Dustin Herman
Spangenberg Shibley & Liber	William Hawal
Spangenberg Shibley & Liber	Peter Brodhead
Spangenberg Shibley & Liber	Jeremy Tor
Spangenberg Shibley & Liber	Pete Weinberger
Stewart Bell PLLC	Harry Bell
Taft Stettinius & Hollister	David Butler
Taylor Martino	Richard Taylor
The Bruehl Law Firm	Curtis Bruehl
The Czack Law Firm	Mike Czack

APPENDIX A

December 18, 2017 Opiate Meeting
Cleveland, Ohio
Attendance List

The Lanier Law Firm	Mark Lanier
The Lanier Law Firm	Rick Meadow
Thrash Law Firm	Marcus Bozeman
Troy Law Firm PLLC	Mark Troy
Wagstaff & Cartmell LLP	Tom Cartmell
Wagstaff & Cartmell LLP	Eric Barton
Wapner Newman Wigrizer Brecher & Miller	Steven Wigrizer
Warren McGraw Law Firm	Randolph McGraw
Watts Guerra LLP	Mikal Watts
Watts Guerra LLP	
Webb Law Centre LLP	Rusty Webb
Weisman Kennedy & Berris	Dan Goetz
Weisman Kennedy & Berris	Eric Kennedy
Wexler Wallace LLP	Ed Wallace
Wexler Wallace LLP	Ken Wexler
Wolf Popper LLP	Matthew Insley-Pruitt
Wooton Davis Hussell Ellis	Chris Davis
Young & Partners	Tom Young
Zarzaur Mujumdar & Debrosse	Julie Zimmerman
Zoll & Kranz	Michelle Kranz

CERTIFICATE OF SERVICE

I, Victoria A. Guilfoyle, hereby certify that on the 25th day of June, 2019, I served or caused to be served the foregoing *Objection of the MDL Plaintiffs to Motion of Debtors for (I) Entry of Orders Pursuant to §§ 105(a) and 502(c) (A) Establishing Procedures and Schedule for Estimation Proceedings and (B) Estimating Debtors' Aggregate Liability for Certain Categories of Claims, (II) Entry of Protective Order, and (III) Subordination of Certain Penalty Claims* upon the following persons via electronic mail and in the manner indicated below:

Mark D. Collins
John H. Knight
Paul N. Heath
Amanda R. Steele
Zachary Shapiro
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 N. King Street
Wilmington, Delaware 19801
(Via Hand Delivery)

Gary T. Holtzer
Ronit J. Berkovich
Peter D. Isakoff
Brenda L. Funk
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(Via First-Class Mail)

Justin R. Alberto
Erin R. Fay
Daniel N. Brogan
BAYARD, P.A.
600 N. King Street, Suite 400
Wilmington, Delaware 19801
(Via Hand Delivery)

Daniel H. Golden
Arik Preis
Mitchell P. Hurley
AKIN GUMP STRAUSS HAUER & FELD LLP
One Bryant Park
Bank of America Tower
New York, NY 10036-6745
(Via First-Class Mail)

Office of the United States Trustee
Attn: Jane M. Leamy
J. Caleb Boggs Federal Building
844 King Street, Suite 2207, Lockbox 35
Wilmington, Delaware 19801
(Via Hand Delivery)

/s/ Victoria A. Guilfoyle
Victoria A. Guilfoyle (DE. 5183)