

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)

**JOINDER OF THE MDL PLAINTIFFS TO STATEMENT
AND LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS TO MOTION OF DEBTORS PURSUANT TO
11 U.S.C. §§ 105(A), 363, AND 507(A) FOR (I) AUTHORITY TO (A) PAY CERTAIN
PREPETITION WAGES AND REIMBURSABLE EMPLOYEE EXPENSES,
(B) PAY AND HONOR EMPLOYEE MEDICAL AND OTHER BENEFITS, AND
(C) CONTINUE EMPLOYEE BENEFITS PROGRAMS, AND (II) RELATED RELIEF**

The court-appointed² claimants' leadership team³ in In re: National Prescription Opiate Litigation, Case No. 17-md-02804, MDL No. 2804 (N.D. Ohio) (the "**Opioid MDL**"), for and on behalf of the 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**"), hereby joins the *Statement and Limited Objection of the Official Committee of Unsecured Creditors to Motion of Debtors Pursuant to 11 U.S.C. §§ 105(A), 363 and 507(A) for (I) Authority to (A) Pay Certain*

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 *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, Jan.4, 2018 (N.D. Ohio) (Dkt. No. 34); see also Margin Order Granting Dkt. No. 34 (Dkt. No. 37).

³ The leadership team includes the three Co-Lead Counsel, the sixteen-member Plaintiffs' Executive Committee, and three Co-Liaison Counsel.

Prepetition Wages and Reimbursable Employee Expenses, (B) Pay and Honor Employee Medical and Other Benefits, and (C) Continue Employee Benefits Programs, and (II) Related Relief (the “**Limited Objection**”) [ECF No. 482] filed by the Official Committee of Unsecured Creditors (the “**UCC**”) and state as follows.⁴

Joinder

1. The MDL Plaintiffs join in the UCC’s Limited Objection to the Proposed Severance Program and adopt and incorporate the assertions and arguments made in the Limited Objection as if fully set forth herein. The MDL Plaintiffs also adopt the arguments made in the joinders to the Limited Objection, filed on the docket.

2. The Limited Objection exposes a critical area of concern to all creditors holding claims related to or arising out of the Debtors’, their employees’, and agents’ deceptive, fraudulent, and criminal marketing of their fentanyl opioid drug SUBSYS, which has fueled the nationwide opioid crisis and significantly harmed the MDL Plaintiffs. The Debtors should not, and, as set forth in the Limited Objection, have acknowledged that they should not, pay additional sums to employees who have engaged in or were otherwise complicit in the Debtors’ prepetition indisputably improper, harmful, and criminal conduct. The Severance Program, as proposed, provides neither the disclosure nor representations necessary to ameliorate the MDL Plaintiffs’ concerns that notwithstanding all parties’ interest in preventing a windfall to bad actors, such actors will receive that windfall out of the pockets of harmed parties.

3. For the reasons set forth in the Limited Objection and the joinders thereto, the MDL Plaintiffs submit that the Court should deny the Wages Motion or modify the relief requested as proposed by the UCC.

⁴ Capitalized terms utilized but not defined herein shall have the meanings ascribed to them in the Limited Objection

Dated: August 21, 2019
Wilmington, DE

SULLIVAN HAZELTINE ALLINSON LLC

/s/ William A. Hazeltine

William D. Sullivan (I.D. No. 2820)
William Hazeltine (I.D. No. 3294)
901 N. Market Street, Suite 1300
Wilmington, DE 19801
Telephone: (302) 428-8191
Email: whazeltine@sha-llc.com
Email: bsullivan@sha-llc.com

-and-

BROWN RUDNICK LLP

David J. Molton (admitted *pro hac vice*)
Kenneth J. Aulet (admitted *pro hac vice*)
Gerard T. Cicero (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
Email: kaulet@brownrudnick.com
Email: gcicero@brownrudnick.com

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

Special Insolvency Counsel to the MDL Plaintiffs

CERTIFICATE OF SERVICE

I, William A. Hazeltine, do hereby certify I am not less than 18 years of age and that on this 19th day of August 2019, I caused copies of the within *Joinder of the MDL Plaintiffs to Statement and Limited Objection of the Official Committee of Unsecured Creditors to Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a), 363, and 507(A) for (I) Authority to (A) Pay Certain Prepetition Wages and Reimbursable Employee Expenses, (B) Pay and Honor Employee Medical and Other Benefits, and (C) Continue Employee Benefits Programs, and (II) Related Relief* to be served upon the parties listed below in the manner indicated. All other parties who have signed up for electronic filing in this case will receive electronic notice via CM/ECF.

Via Facsimile

Gary T. Holtzer, Esq.
Ronit J. Berkovich, Esq.
Candace M. Arthur, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Fax: (212) 310-8007

Via Hand Delivery

John H. Knight, Esq.
Paul N. Heath, Esq.
Amanda R. Steele, Esq.
Zachary Shapiro, Esq.
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801

Via Facsimile

Daniel H. Goilden, Esq.
Arik Preis, Esq.
Mitchell P. Hurley, Esq.
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
Bank of America Tower
New York, NY 10036-6745
Fax: (212) 872-1002

Via Hand Delivery

Erin R. Fay, Esq.
Justin R. Alberto, Esq.
BAYARD, P.A.
600 N. King Street, Suite 400
Wilmington, DE 19801

Via Hand Delivery

Jane Leamy, Esq.
Office of the United States Trustee
844 King Street, Suite 2207
Lockbox # 35
Wilmington, DE 19801

August 21, 2019
Date

/s/ William A. Hazeltine
William A. Hazeltine