

The logo for National Opioid Litigation features two vertical orange bars of varying heights on the left. To the right, the words "NATIONAL" and "OPIOID LITIGATION" are stacked vertically in a bold, blue, sans-serif font.

Writer's email:
jgaddy@levinlaw.com

September 14, 2023

VIA Email: cao@co.hernando.fl.us

Mr. John Allocco
15470 Flight Path Drive
Brooksville, FL 34601

Dear Mr. Allocco:

On behalf of the National Consortium, I am pleased to announce and provide you with information regarding a proposed settlement with Masters Pharmaceuticals¹ ("Masters") that proposes to allocate settlement dollars to your subdivision. Unlike previous opioid settlements, this is not a national settlement. Instead, it compensates only those local governments who both named Masters in their complaint and had opioids distributed into their communities by Masters. Your local community was one of the few that brought a case against Masters based on its shipping opioids into your geographic territory. The settlement agreement and all exhibits are attached to this email. The documents can also be accessed using the link at the bottom of this communication.

To participate in this settlement you must complete and execute Exhibit C to the Agreement – the Masters Pharmaceutical Settlement Participation Agreement – and the Distribution Sheet, and return both forms to us at opioidsettlement@levinlaw.com. After reading the information below, if you have any questions regarding this settlement proposal, please do not hesitate to contact us at opioidsettlement@levinlaw.com so that we can schedule a time to talk.

Masters was a distributor of opioids. In the context of the opioid litigation, Masters was made famous by a DEA enforcement action that resulted in a U.S. Court of Appeals decision that helped define what an "effective suspicious ordering monitoring system" was pursuant to the Controlled Substances Act. After the DEA enforcement action, Masters' assets were sold to McKesson in 2017 and Masters is currently a wholly-owned subsidiary of McKesson.² Therefore, unlike the companies that have previously been involved in national settlements, Masters has no assets.

¹ Masters Pharmaceuticals includes two d/b/a companies, River City Pharma and Masters Drug Company.

² As you will recall, McKesson has already entered into a national settlement and you have already begun receiving settlement funds from McKesson.



NATIONAL OPIOID LITIGATION

However, during the opioid litigation, it was discovered that Masters had two insurance policies. One policy was a commercial liability policy with Acuity. The second policy is a D/O policy with Federal Insurance (Chubb). For years the two carriers provided a defense of opioid cases to Masters in which they shared defense costs equally. Recently the Ohio Supreme Court ruled that the Acuity Policy did not provide coverage for any opioid claims. Currently, the Chubb policy is Masters' only remaining asset. It is a “burning policy” with a little more than \$4M in coverage remaining. The PEC has entered into a tentative agreement with Chubb and Masters in which Chubb will pay the remaining policy limits to plaintiff subdivisions who both named Masters in their complaint and had opioids distributed into their communities by Masters.

The gross settlement offer to the subdivisions is \$3,339,547.49. A court order requires the deduction of a 7.5% common benefit assessment (“MDL Assessment”) of \$250,466.06 that is paid out of the attorney fees, leaving the amount allocated to subdivisions and their contingent fee attorneys as \$3,089,081.43.³ The subdivision allocations reflecting the deduction of MDL Assessment, are listed on Exhibit D. The allocation method is explained below.

To determine the amount allocated to each qualifying subdivision, the number of dosage units Masters distributed into each subdivision was divided by the total number of dosage units Masters distributed to all litigating subdivisions from 2006 to 2014.⁴ If a city within a litigating county is also litigating, the dosage units distributed to the litigating city are credited to the city and not the county.⁵ Of note, the settlement does not contemplate allocating any settlement proceeds to plaintiff subdivisions where there was no distribution of opioids by Masters. It also does not allocate any settlement proceeds to plaintiffs who are hospitals or hospital districts.

From this settlement, we are waiving recovery of any costs, but you will owe your contractual contingency attorney fee of 25% less the 7.5% MDL Assessment that has already been deducted. We’ve attached a Distribution Sheet that explains your allocation and the reductions for the MDL Assessment and contingency fees. **You must also sign and return to us at opioidsettlement@levinlaw.com a copy of your Distribution Sheet.**

We are asking that you place this matter on the next agenda for approval by the appropriate commission, council, board, or committee members for your subdivision. **Once your**

³ In addition to the \$3,089,081.43, the settlement agreement provides for a \$100,000 holdback for Masters’ attorneys’ fees to administer the settlement after 100% participation is attained, and a \$200,000 holdback to defend and/or settle any newly filed cases against Masters after the settlement announcement. Any remaining balance in either hold-back fund will be paid and distributed to the subdivisions after attorney fees using the same metrics in Exhibit D.

⁴ For example, if Masters had distributed 100 opioid pills to litigating subdivisions, and 10 pills were distributed into your subdivision, you would be allocated 10% of the available funds.

⁵ For example, if Masters distributed 100 opioid pills into litigating County X, and 10 of those pills went into litigating City Y, then County X would be credited with 90 pills and City Y credited with 10 pills.



The logo for National Opioid Litigation features two vertical orange bars of varying heights to the left of the text. The text "NATIONAL OPIOID LITIGATION" is in a bold, blue, sans-serif font, with "NATIONAL" on the top line and "OPIOID LITIGATION" on the bottom line.

subdivision has approved the Masters' settlement please execute the attached Ex. C Masters Pharmaceuticals Settlement Participation Agreement and your Distribution Sheet, and then send them to opiodsettlement@levinlaw.com.

This settlement is contingent on 100% participation by all subdivisions on Exhibit D that are allocated funds, and dismissals being filed by 100% of subdivisions and hospitals on Exhibit D that are not receiving an allocation. Said differently, you will receive funds from Masters only if all plaintiffs listed on Exhibit D either participate in the settlement or dismiss their case. Therefore, we intend to hold your executed participation agreement in escrow until such time we can confirm there is 100% participation. Otherwise, per the terms of the agreement, we would be required to enter an order dismissing Masters with prejudice in your case within 14 days of submitting the executed participation agreement.

We have included a link that contains all the settlement documents that will provide more details of the settlement. It also includes the documents necessary for approval of the settlement, including the Settlement Agreement and all exhibits thereto.

If we can answer any questions or assist in any way, please do not hesitate to let us know. As always, we can be reached at opiodsettlement@levinlaw.com.

Link to settlement documents:

<https://opiodlitigation.box.com/s/d5pb3h2cznsw29aezflc4zypocmutwbm>

Sincerely,

/s/ Jeff Gaddy

Jeff Gaddy, Esq.
Levin, Papantonio, Rafferty P.A.



LEVIN
PAPANTONIO
RAFFERTY



BARON & BUDD
PROTECTING WHAT'S RIGHT™



POWELL &
MAJESTRO
LLC

MCHUGH FULLER
LAW GROUP



GREENE KETCHUM
BAILEY & TWEE LLP
Personal Injury Attorneys

HPCB&D

Hill, Peterson, Carper,
Bee & Deitzler, PLLC



FARRELL & FULLER