

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

IN RE: NATIONAL PRESCRIPTION	)	MDL 2804
OPIATE LITIGATION	)	
	)	Case No. 1:17-md-2804
	)	
THIS DOCUMENT RELATES TO:	)	Judge Dan Aaron Polster
	)	
<i>ALL THIRD PARTY PAYOR ACTIONS</i>	)	

**JOINT DECLARATION OF PAUL J. GELLER AND ELIZABETH J. CABRASER IN
SUPPORT OF THIRD PARTY PAYOR PLAINTIFFS' MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENTS AND DIRECTION OF NOTICE
UNDER FEDERAL RULE OF CIVIL PROCEDURE 23(e)**

We, Elizabeth J. Cabraser and Paul J. Geller, declare and state as follows:

1. I, Elizabeth J. Cabraser, am an attorney admitted to practice in the state of California. I am a founding partner of Lieff Cabraser Heimann & Bernstein, LLP ("Lieff Cabraser") and a member of the firm's Executive Committee. This declaration is based upon my personal knowledge unless otherwise indicated. If called upon to testify as to the matters stated herein, I could and would competently do so.

2. I, Paul J. Geller, am an attorney admitted to practice in the state of Florida. I am the managing partner of Robbins Geller Rudman & Dowd LLP's ("Robbins Geller") Boca Raton, Florida office, a founding partner of the firm, a member of its Executive and Management Committees, and head of the firm's Consumer Practice Group. This declaration is based upon my

personal knowledge unless otherwise indicated. If called upon to testify as to the matters stated herein, I could and would competently do so.

3. We submit this Joint Declaration in support of Third Party Payor (“TPP”) Plaintiffs’ Motion for Preliminary Approval of Class Action Settlements and Direction of Notice Under Federal Rule of Civil Procedure 23(e).

4. We are proposed Interim Co-Lead Settlement Class Counsel in this action, along with Mr. James R. Dugan, II of The Dugan Law Firm, APLC (“The Dugan Firm”). Mr. Geller’s firm represents proposed Settlement Class Representatives Cleveland Bakers and Teamsters Health and Welfare Fund and Pipe Fitters Local Union No. 120 Insurance Fund. Ms. Cabraser’s firm represents proposed Settlement Class Representatives American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan and Pioneer Telephone Cooperative, Inc. Employee Benefits Plan. Mr. Dugan’s firm represents proposed Settlement Class Representatives United Food and Commercial Workers Health and Welfare Fund of Northeastern Pennsylvania and Sheet Metal Workers Local No. 25 Health & Welfare Fund.

5. We are all members of the Plaintiffs’ Executive Committee (“PEC”) in this MDL, and Mr. Geller and Ms. Cabraser are also members of the Court-appointed Settlement Negotiating Committee in this MDL.

I. Litigation and Settlement History

6. By the end of 2017, dozens of TPPs filed lawsuits against defendants across the prescription opioid supply chain for their alleged roles in causing the nationwide opioid epidemic. On December 5, 2017, the Judicial Panel on Multidistrict Litigation centralized the federal court cases in this Court, which became MDL 2804, *In re National Prescription Opiate Litigation*.

7. In addition to the scores of actions filed by TPPs, including the above-named proposed Settlement Class Representatives, this MDL consists of thousands of lawsuits filed by cities and counties, Native American tribal governments and related tribal entities (“Tribes”), babies born addicted to opioids, and health care providers. Broadly speaking, Plaintiffs in this MDL allege that opioid manufacturers, distributors, and opioid-dispensing pharmacies acted in concert to aggressively market prescription opioids and flood the country with inordinate quantities of opioids in order to vastly increase their profits, misleading medical professionals into prescribing—and TPPs into paying for—a massive oversupply of dangerous controlled substances.

8. The TPPs that comprise the proposed Settlement Class are private benefit plans, such as Taft-Hartley funds, that provide health and welfare benefits to their members and their members’ families, including reimbursement for some or all of the costs of prescription opioids that were included in their approved formularies, and often for the resulting medical expenses (*e.g.*, opioid use disorder treatment and emergency visits). TPPs claim that hundreds of thousands of individuals in the United States have died from an opioid overdose, and TPPs have spent billions of dollars on their members’ opioid prescriptions and resulting medical care. Settling Defendants have denied all alleged wrongdoing.

9. TPP Plaintiffs first filed cases in late 2017 through early 2019, the vast majority of which were centralized in this MDL. On February 21, 2020, the Court denied in part Marketing Defendants’, Distributor Defendants’, and Pharmacy Defendants’ motions to dismiss the Corrected Unredacted Amended Complaint brought by the TPP “briefing bellwether” Plaintiffs: Cleveland Bakers and Teamsters Health and Welfare Fund and Pipe Fitters Local Union No. 120 Insurance Fund. *See In re Nat’l Prescription Opiate Litig.*, 440 F. Supp. 3d 773 (N.D. Ohio 2020).

The Court also subsequently denied certain defendants' motions to certify for interlocutory appeal the motion to dismiss Order in the *Cleveland Bakers* action. *See* ECF 3289.

10. For several years after that, the Court activated and adjudicated other cases in this MDL before turning again to the long-stayed claims by the TPPs. Following a months-long bellwether selection process, on October 25, 2023, the Court entered an Order identifying four bellwether cases ("TPP Bellwether Plaintiffs") designated CT16 through CT19. *See* ECF 5225. On December 26, 2023, the Court issued the Case Management Order for Third Party Payor Bellwether Cases, which set certain deadlines governing TPP Bellwether Plaintiffs' amendment of their pleadings. ECF 5281. Throughout January and February 2024, TPP Bellwether Plaintiffs issued subpoenas to numerous third parties to obtain prescription and medical transaction data, and on February 15, 2024, TPP Bellwether Plaintiffs served their Amended Complaints. *See* ECF 5313-5316. On May 30, 2024, Distributor Defendants filed a Joint Motion to Sever and Stay proceedings in order to negotiate settlement documentation, which the Court granted. ECF 5470. The parties briefed that class settlement, while MDL 2804 actions as to the Settling Distributors were stayed. ECF 5616. Ultimately, this Court granted final approval of the class settlement with the Distributor Defendants on January 15, 2025. ECF 5869.

11. Meanwhile, litigation proceeded against the instant Settling Defendants. In spring 2024, the parties extensively negotiated the scope and fields for the medical and pharmacy claims data that the TPP Bellwether Plaintiffs had subpoenaed, culminating with the Court's entry of the Order Governing Production of Medical and Pharmacy Claims Data on May 29, 2024. ECF 5468. Between summer and fall 2024, following briefing, the Court clarified its intention to hear the bellwethers as individual cases and severed claims other than federal RICO and state law analogs, conspiracy, and consumer fraud. *See* ECF 5675. In November 2024, the parties exchanged

proposed search terms, and in January 2025, the parties began serving formal written discovery. In April 2025, the Court ordered claims data production and required third parties to provide certain medical and pharmacy output fields. *See* ECF 6061. Through fall 2025 and early 2026, the parties extensively negotiated, briefed, and argued ESI and data productions and written discovery.

12. The parties to the proposed TPP Class Settlements engaged in settlement negotiations conducted by Mr. Fouad Kurdi, who successfully mediated previous opioids settlements, including the TPP class settlement in *In re McKinsey & Co., Inc. National Prescription Opiate Consultant Litig.*, MDL No. 2996 (N.D. Cal.) and the TPP class settlement with the Distributor Defendants. On January 21, 2025, Janssen and PEC members of the Court-appointed Settlement Negotiating Committee—Paul J. Geller and Elizabeth J. Cabraser, with their partners Mark J. Dearman, Dory P. Antullis, Eric B. Fastiff, and Dan Drachler, as well as PEC member James R. Dugan, II—and outside counsel for large insurers mediated TPP claims. Allergan and Mr. Geller, Ms. Cabraser, Mr. Dugan, their colleagues, and outside counsel for large insurers also agreed to mediate TPP claims on February 12, 2025. These mediations took place before Mr. Kurdi and culminated in an in-person mediation (Allergan) in Boca Raton, Florida and a Zoom mediation (Janssen). Although no settlement was reached on those days, Mr. Kurdi continued to work with the parties. In tandem with these negotiations, proposed Interim Co-Lead Counsel negotiated a settlement with Teva—which purchased the related Actavis Generic Entities in 2016—and with the Settling Pharmacies, via Mr. Kurdi as an intermediary.

13. On November 26, 2025, Allergan, Teva, and proposed Interim Class Counsel accepted a mediator's proposal from Mr. Kurdi. On February 6, 2026, the Settling Pharmacies and proposed Interim Class Counsel also accepted a mediator's proposal from Mr. Kurdi. And in

March 2026, Janssen and proposed Interim Class Counsel accepted a mediator's proposal from Mr. Kurdi. Following the acceptance of the mediator's proposals, the Parties engaged in months of additional negotiations to reduce the settlements to writing. These Settlements are the result of those extensive, informed, and arm's-length negotiations.

II. Settlement Benefits and Anticipated Recovery

14. Attached hereto as **Exhibits A-D** are true and correct copies of the four Master Settlement Agreements among TPP Plaintiffs and Settling Defendants: the Allergan Settlement Agreement, the Janssen Settlement Agreement, the Teva Settlement Agreement, and the Pharmacies Settlement Agreement.

15. The Settlement benefits are discussed at length in the accompanying memorandum of points and authorities, and in the proposed Notice.

16. In short, Settling Defendants have agreed to pay \$180 million, collectively, into the Settlement Fund, comprising \$10 million under the Allergan Settlement Agreement, \$40 million under the Janssen Settlement Agreement, \$45 million under the Teva Settlement Agreement, and \$85 million under the Pharmacies Settlement Agreement.

17. Attached as **Exhibit E** is the Declaration of Dr. Meredith Rosenthal. Dr. Rosenthal's attached declaration and report is the same that she submitted in support of the prior class settlement with Settling Distributors. *See* ECF 5614-7. Dr. Rosenthal is a Professor of Health Economics and Policy at the Harvard T.H. Chan School of Public Health. Dr. Rosenthal's Declaration sets out TPP Plaintiffs' proposed Plan of Allocation among members of the proposed Settlement Class.

III. Selection of Notice and Claims Administrator

18. Attached hereto as **Exhibit F** is a Proposed Long-Form Notice, which substantially reflects the notice to be disseminated.

19. Attached hereto as **Exhibit G** is a Proposed Postcard Notice, which substantially reflects the notice to be disseminated.

20. Attached hereto as **Exhibit H** is a Proposed Claim Form, which substantially reflects the claim form to be disseminated.

21. A.B. Data, Ltd. (“A.B. Data”) is a nationally recognized, highly experienced notice and claims administrator that has, in over 20 TPP class actions, provided claim administration and email and direct mail notice to TPPs, including recently in the TPP class settlement in *McKinsey* and the TPP-Distributors Settlement in this MDL. A.B. Data will provide direct notice to Class members through a combination of mail, email, and internet publication of the Settlements and of every Class member’s right to participate or opt out. The proposed Notice will also be posted on a dedicated TPP settlement website (<https://tppopioidsettlement.com>), which will be cross-linked from the master National Opioids Settlement website (<http://nationalopioidsettlement.com>). The content of the proposed Notice clearly articulates the terms of the Settlements and Class members’ rights and options in plain, easily understood language.

22. Attached hereto as **Exhibit I** is the Declaration of Eric J. Miller, Senior Vice President of Case Management at A.B. Data, which describes A.B. Data’s qualifications and experience in administering complex settlements, including those involving TPP Class members.

IV. Proposed Settlement Class Representatives

23. The proposed Settlement Class Representatives are Cleveland Bakers and Teamsters Health and Welfare Fund; Pipe Fitters Local Union No. 120 Insurance Fund; Pioneer

Telephone Cooperative, Inc. Employee Benefits Plan; American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan; Louisiana Assessors' Insurance Fund; United Food and Commercial Workers Health and Welfare Fund of Northeastern Pennsylvania; and Sheet Metal Workers Local No. 25 Health & Welfare Fund.

24. The proposed Settlement Class Representatives, which include named Plaintiffs in actions centralized in this MDL—six of the seven of whom serve as either TPP Bellwether Plaintiffs or TPP briefing bellwethers—understand their duties, have agreed to consider the interests of absent Settlement Class members, and have reviewed and uniformly endorse the Settlement terms.

25. The proposed Settlement Class Representatives have participated actively in the case, including filing complaints and amended complaints, engaging in Plaintiff-side discovery by producing claims data, and communicating with their counsel regarding the strategy, status, and settlement of the litigation.

V. Proposed Interim Settlement Class Counsel and Co-Lead Settlement Class Counsel

26. Mr. Geller, Ms. Cabraser, Mr. Dearman, Mr. Fastiff, and Mr. Dugan are proposed Interim Settlement Class Counsel based on our collective experience in TPP litigation, including opioid litigation. Mr. Geller and Ms. Cabraser, both of whom have served since its inception as members of the Court-appointed Settlement Negotiating Committee, and Mr. Dugan, who was designated by the Court to exclusively represent the interests of TPP Plaintiffs, are proposed Interim Co-Lead Settlement Class Counsel given our active and ongoing efforts to prosecute and resolve opioid cases against many defendant groups in this MDL, and in the related MDL 2996, *McKinsey*. Together, our three firms have undertaken an enormous amount of work, effort, and expense in this MDL on behalf of the proposed TPP Settlement Class.

27. Mr. Geller is a founding partner of Robbins Geller, where he has handled cases in each of the firm's practice areas for nearly 30 years. Mr. Geller is currently a member of the PEC and Settlement Negotiating Committee in this MDL, in which he played a significant role in helping to negotiate and implement each of the national settlements that have been reached thus far. The Court previously found Mr. Geller to be qualified to be TPP Class Counsel in connection with the TPP Distributors settlement.

28. Mark J. Dearman is a partner in Robbins Geller's consumer group, where his practice focuses on consumer fraud, securities fraud, mass torts, antitrust, and whistleblower litigation. He shares responsibility with Mr. Geller for litigating on behalf of cities, counties, and TPPs in this MDL, and he has been instrumental in the recent settlement of TPP litigation in *McKinsey* (MDL No. 2996).

29. Robbins Geller is one of the nation's largest plaintiffs' side MDL, aggregate litigation, and class action law firms in the country. Robbins Geller has a long history of achieving record- and precedent-setting recoveries across multiple class action practice areas.

30. Ms. Cabraser, a founding partner of Lieff Cabraser, has served as Court-appointed lead, co-lead, or class counsel in scores of federal multi-district and state coordinated proceedings. She has 46 years' experience representing plaintiffs in aggregate litigation and has served in court-appointed roles in numerous MDLs. She is currently a member of the PEC and Settlement Negotiating Committee in this MDL and serves as Plaintiffs' Lead Counsel in *McKinsey*, in which national settlements for cities and counties, school districts, Tribes, and TPPs have been reached and approved. The Court previously found Ms. Cabraser to be qualified to be TPP Class Counsel in connection with the TPP Distributors settlement.

31. Eric B. Fastiff is a partner in Lieff Cabraser's San Francisco office, where he has 29 years' experience in litigating on behalf of TPPs, consumers, large and small businesses, governments, and Native American tribes and their health providers. He has proven instrumental in the settlement of TPP litigation in *McKinsey*. In that case, in addition, he works with Ms. Cabraser to oversee all aspects of litigation and the various settlements.

32. James R. Dugan, II is the founder of The Dugan Firm. Mr. Dugan is a member of the PEC and was designated by the Court to exclusively represent the interests of TPPs in this MDL. ECF 37. He actively participated in the settlement negotiation process, the 2025 mediations, and the litigation of TPP Bellwethers' claims.

VI. Common Benefit and Hours, and Costs Incurred

33. Proposed Interim Co-Lead Settlement Class Counsel intend to seek attorneys' fees not to exceed 20% of the Settlement Funds, plus all reimbursable costs and service awards. TPP Plaintiffs' forthcoming fee motion, to be filed with the motion for final approval and heard in conjunction with the Fairness Hearing, will include the rationale and necessary details in support of their request.

34. Proposed Interim Co-Lead Settlement Class Counsel will provide additional information regarding time, expenses, and rationale for their request in the fee application so that Class members have the opportunity to comment on or object to the requested fees prior to the Fairness Hearing.

35. The amount awarded by the Court as fees and costs will be paid from the \$180 million Settlement Funds and will include the common benefit obligations due under the Court's common benefit-related Orders. The common benefit portion of the award shall be allocated by the Fee Panel among qualified applicants, which are the firms that represent litigating TPPs against

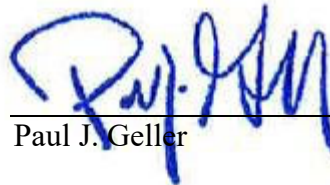
the Settling Defendants and did work that inured to the common benefit. The remaining amount awarded shall be allocated by Interim Co-Lead Settlement Class Counsel among counsel performing work for the direct benefit of the TPPs, with any appeals to such allocation going to Special Master David Cohen.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 12, 2026 in San Francisco, California.



Elizabeth J. Cabraser

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 12, 2026 in Boca Raton, Florida.



Paul J. Geller