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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: Case No. 1:17-md-2804
NATIONAL PRESCRIPTION Cleveland, Ohio
OPIATE LITIGATION Wednesday, July 27, 2022
2:00 p.m.

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TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE DAN AARON POLSTER,
SENIOR UNITED STATES DISTRICT JUDGE,
AND SPECIAL MASTER DAVID COHEN.

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For the Plaintiff Steven Skikos, Esq.
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For the Defendant Teva: Eric W. Sitarchuk, Esq.
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(Appearances Continued to page 2.)

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

1 APPEARANCES: (Continued.)

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12		Caroline P. Mayhew, Esq.
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1 AFTERNOON SESSION, WEDNESDAY, JULY 27, 2022 2:00 P.M.

2 SPECIAL MASTER: I'll just do a brief
3 introduction.

4 Our court reporter's name today is Heidi, and because
5 of course we're not appearing live, if everybody who speaks
6 would mention who they are, that would be helpful.

7 We're here in the Opioid MDL, that's MDL 2804, and the
8 reason we're here today is for the Tribal Leadership
9 Committee, which is being represented by Steve Skikos, to
10 discuss the settlement that the tribes have reached with
11 Teva, which is represented today by Eric Sitarchuk; so I
12 think that Eric and Steve will be the ones primarily who are
13 presenting. And there are also on the phone quite a number
14 of other attorneys representing tribes.

15 And so, Judge, the parties are going to explain to you
16 the settlement agreement that they've reached, and I'll hand
17 it off to Steve.

18 MR. SKIKOS: Thank you. I just want to make
19 surer Eric Sitarchuk is on.

20 MR. SITARCHUK: I am.

21 Good afternoon, Your Honor, and everyone else.

22 MR. SKIKOS: Okay. We have an agreed
23 statement.

24 On behalf of the MDL Tribal Leadership Committee, we
25 would like to thank Your Honor, Special Master David Cohen,

1 and counsel for Teva, for the opportunity to present the
2 financial terms of this settlement in principle.

3 A few points of background. In this case, over 170
4 tribal nations filed suit in the MDL and in this Court
5 appointed by the Tribal Leadership Committee to serve the
6 interests of all tribes.

7 In October of 2018, in response to a motion to dismiss
8 and in light of the experience in Tobacco in which the
9 tribes were excluded, over 450 tribes and tribal
10 organizations signed on to the tribal *amicus* briefs. This
11 filing represents 70 percent of all federally-recognized
12 tribes and an estimated 85 percent of all tribal citizens.
13 This was a clear and unified statement in support of the
14 tribal litigation efforts in the Opioid MDL and in support
15 of tribal rights to resolve their own cases.

16 The TLC itself is a combination of firms that
17 historically represent tribes, firms that work on and with
18 the PEC, and firms responsible for the efforts on liability
19 discovery, experts, law and motion, and trial.

20 And as you know, Your Honor, the tribes have one of
21 the bellwether cases in Cherokee Nation and further helped
22 commence the case against the generic manufacturers when
23 Blackfeet and Muscogee Creek won a series of rulings in June
24 of 2019. The tribes are additive and necessary cases to the
25 two cases of this magnitude, and this led to a settlement in

1 principle.

2 The financial terms with Teva is that Teva will pay
3 \$119 million over 13 years plus product. The settlement in
4 principle is conditioned first on an agreement with Allergan
5 on indemnification and on an agreement with Allergan on
6 their participation in the global.

7 Now a few points on eligibility and effective date.

8 The aggregate settlement will be presented to all
9 federally-recognized tribes. Both litigating and
10 non-litigating tribes will have the right to participate in
11 the settlement. The tribe does not have to file suit to
12 participate.

13 There are litigating tribal healthcare organizations
14 that are also eligible to participate. On the subject of
15 tribal healthcare, 85 percent of the total settlement funds
16 in the Teva deal will be spent on drug treatment and related
17 abatement programs.

18 Dean Kevin Washburn, former Indian Health Service
19 Director Mary Smith, and expert Kathy Hannan, all tribal
20 citizens, will share the responsibility for the
21 implementation of the settlement under the supervision of
22 court-appointed administrator David Cohen. They will also
23 lead the outreach and notice to non-litigating tribes.

24 Each participating tribal entity will have the sole,
25 ultimate, and final say over which abatement uses are best

1 for that tribal entity as that tribal entity continues to
2 address the opioid crisis. David Cohen and Wayne Phillips
3 will jointly determine the final intertribal allocation.
4 Each tribal entity shall have the right to meaningfully
5 participate in the final allocation process and a right to
6 be heard prior to the final allocation order specific to
7 this opioid crisis.

8 Tribal participation will be important. On that note,
9 the current participation rate, thanks to the TLC, for the
10 Johnson & Johnson settlement is over 98 percent with zero
11 affirmative opt-outs, and we have reached effective date
12 with Johnson & Johnson. It is the goal of the TLC to reach
13 and to mirror the participation results here.

14 The TLC which is represented on this call believes in
15 the overall value, purpose, and reliability of the
16 settlement procedures and is committed to work in
17 cooperation with you, Your Honor, Special Master Cohen,
18 Judge Wayne Phillips, the directors, and the company, to
19 reach participation requirements once we finish the MSA with
20 Teva.

21 Referring to the terms of the terms sheet -- I don't
22 have it yet. Anyway, last point. Finally, the aggregate
23 amount of all opioid-related settlements with the tribes is
24 almost exactly one billion dollars. And I want to thank
25 Your Honor for that.

1 In coordination with the PEC, the TLC continues to
2 pursue the cases against the pharmacies and the remaining
3 manufacturers, including the generics, and to protect the
4 tribal claims in the Perdue and Mallinckrodt bankruptcies.

5 That's all I have to say. Eric, it's up to you.

6 MR. SITARCHUK: Thank you, Steven.

7 And Your Honor, I would just like to thank the Court
8 and the Court's staff, obviously, and Special Master Cohen,
9 for all the support that you've provided throughout these
10 negotiations. It's been indispensable. And I'd also like
11 to thank Steve Skikos for the tireless work that he put into
12 bringing this agreement in principle across the finish line.

13 THE COURT: All right. Well, I appreciate all
14 the hard efforts and obviously the results, and I'm
15 committed to making sure that it gets concluded. If you run
16 into snags you should contact me or Special Master Cohen,
17 and I'll help you work through them. It's obviously very
18 significant to all the tribal nations and to Teva.

19 So again, I appreciate everyone's hard work.

20 MR. SKIKOS: Thank you, Your Honor. And
21 David, we're sending you all the names of the TLC
22 participants for the record.

23 SPECIAL MASTER: Thank you all very much.
24 Have a good afternoon.

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