

**DISTRIBUTORS/JANSSEN NATIONAL OPIOID SETTLEMENT
LITIGATING SUBDIVISION COST FUND**

FREQUENTLY ASKED QUESTIONS

General

1. *There appears to be a limited amount of money to pay expenses. How will the Administrator deal with the issue of more expenses than money?*

The Administrator will establish a priority for payment based upon various factors. For example, the Administrator may choose to reimburse 100% of common benefit expenses but less than 100% of non-litigating subdivision expenses. Applicants can increase their amount of reimbursement by providing detailed Expense Reports and all supporting documents, as required in the Expense Application and upon request of the Administrator.

2. *If I submit my Expense Application earlier, will my Audit get done before November 1st?*

No. We are waiting until all Expense Applications are submitted before we start sending audit notifications.

Eligible Expenses

3. *Should PEC litigation assessments be submitted?*

No. MDL Participating Counsel will see that any assessment payments included in their monthly expense submissions have been removed from their MDL expense spreadsheet.

4. *Can MDL Participating Counsel be reimbursed for complaint filing fees for participating Subdivisions that are not bellwether cases?*

Yes.

5. *Are expenses related to service of process on the settling defendants eligible for reimbursement?*

Yes, service of process fees are eligible for reimbursement. Fees for service on the settling defendants will be given a higher payment priority over those for the non-settling defendants, but both are eligible for reimbursement.

6. *I understand the expense cut-off date is 7/21/21. What is the EARLIEST date for which I can submit expenses?*

There is no start date according to Exhibit R and the Order. Thus, as long as the expense incurred meets all other eligibility requirements, you may submit it for reimbursement.

7. *You mentioned that costs associated with advancing the settlement were reimbursable. But, much of that effort post-dated July 21, 2021. Is there a discrepancy there?*

No. There was settlement activity that occurred prior to July 21, 2021. Applicants may have incurred eligible costs in furtherance of this settlement activity.

8. *For regular expenses that are billed on a monthly or quarterly cycle—such as phone, Westlaw, and PACER charges—can a firm enter those into the expense application as they are reflected on the bill, i.e. total for the month, total for the quarter, rather than breaking the bills down and entering each expense individually?*

Yes. You may enter the total reflected on the phone, Westlaw or PACER invoice. When doing so, reflect the date of the invoice as the “date incurred” and in the description give the date range to which the invoice pertains.

9. *Can a law firm submit expenses associated with the Purdue bankruptcy, and, if so. What should be entered in the “Federal MDL/State Coordinated Detail” column for those expenses?*

A law firm can submit those expenses but will be required to notify the Administrator if and when those expenses are reimbursed from the Purdue bankruptcy. While there is no need to enter anything under “Federal MDL/State Coordinated Detail” column, a law firm must indicate in the description that the expenses are Purdue-related expenses.

Counsel Applicants

10. *For counsel submissions, should I use the MDL Participating Counsel application if my subdivision’s case is pending in the MDL, and the **non**-MDL Participating Counsel application if my subdivision’s case is pending in State Court? Is this the differentiating factor?*

No. Applicants will be assigned an application upon registration. There is a defined list of firms who are considered MDL Participating Counsel. These firms have already submitted their common benefit expenses, because they are required to submit them monthly per the *Fee and Expense Order* (Doc. 358). If you are not MDL Participating Counsel and are a law firm, you will be assigned the Non-MDL Participating Counsel application.

11. *If I am working with co-counsel, do we each have to submit our own expenses? Or do we submit all of our expenses combined for each subdivision we represent?*

Each firm submits their own Expense Application. If you are in a consortium of firms that represent multiple Subdivisions, only the firm that actually paid for the expense should submit

that expense for reimbursement.

12. If I file reports for both myself as an attorney and for my Subdivision client, do I need to request access two different times? One for each?

Yes, although the request for both may be contained in the same email.

13. I represent multiple subdivisions. Do I submit one application or multiple?

Each Subdivision will have its own application and each firm will have its own application. If you are a firm submitting an application for reimbursement of expenses **you** paid arising out of representation of more than one Participating Litigating Subdivision, you will complete **one** application and indicate in your Expense Report the Participating Litigating Subdivision to which each expense pertains. You will do this by entering the name of the Subdivision into the "Subdivision Detail" column for each expense on the Expense Report.

If you are representing Participating Litigating Subdivisions that incurred their own, direct in-house costs (not firm expenses or legal fees paid to the firm) and wish to complete applications

on behalf of those Subdivisions, you will need to request access to each Subdivision's application. You may submit this request in one email to Rubris that includes a list of those Subdivisions.

14. *If all of your work was done equally for a group of Subdivisions, on behalf of which Subdivision should you choose to submit the application?*

Expenses incurred by counsel for representation of more than one Subdivision must be split and entered as separate expense entries into the Expense Report and indicate the Participating Litigating Subdivision to which each portion of the expense pertains. For example, if you represent two Subdivisions and spent \$1000 on airfare to meet with both Subdivisions, you would enter two \$500 expenses on the Expense Report and enter the name of each Subdivision into the "Subdivision Detail" column on the Expense Report.

Contract Attorneys

15. Can I submit costs incurred for contract attorneys?

Yes, if the work performed by the contract attorneys was **not** for the common benefit of all Participating Litigating Subdivisions or Tribal Nations. If the work performed by the contract attorneys was for the common benefit, then the costs incurred for the contract attorneys it not eligible for reimbursement from the Cost Fund.

13. *If I already submitted contract attorney time in the common benefit application, should I also include that time as an expense, in the event the contract attorney time is not considered common benefit time by the fee panel?*

No. If contract attorney time submitted as common benefit time is determined by the Fee Panel not to be common benefit time, you will be notified prior to the deadline to submit your Expense Application, so that you may add that cost to your Expense Report.

14. *Can you explain again what MDL counsel are supposed to do with contract attorney time spent on work done for the common benefit?*

If the work performed by contract attorneys was for the common benefit, then you should have already submitted that time as part of counsel's monthly time and Expense Reporting requirement with the firm's Common Benefit Fund Application. If you did not submit that contract attorney time, you will need to contact Rubris to request that your firm's Common Benefit Fund Application be reopened so that you can submit that time for consideration.

If the work performed by the contract attorneys was not common benefit work, then you may submit the costs incurred for those attorneys to the Litigating Subdivision Cost Fund.

Subdivision Applicants

15. *Are in-house attorney's fees for a Subdivision reimbursable under this process?*

The cost of in-house employees, including the cost of in-house attorneys, is eligible for reimbursement, but **only** if the Subdivision's case was designated as a federal or state court bellwether. Outside counsel fees are **not** eligible for reimbursement from the Cost Fund.

16. *If a Subdivision seeks reimbursement for in-house fees, is the correct cost category "Professional fees" or "in-house expense"?*

You would use Category Code "24. In-House Employees."

17. *I am a Participating Litigating Subdivision. Am I correct that I can submit for reimbursement to the Fund fees paid to outside counsel with respect to litigation against and settlement with settling distributors and Janssen?*

No. Only direct in-house **costs** for expenditures related to litigation against or settlement with the Distributors/Janssen are eligible for reimbursement to Subdivisions. Fees paid to outside counsel are not eligible for reimbursement from the Cost Fund.

18. *Is there a list of cases designated as bellwethers in federal or state court?*

The Subdivisions designated as federal bellwether cases are identified in MDL 2804 Orders. The Administrator does not know, at this time, all of the state court bellwethers. If a Subdivision applicant states their case was designated as a federal or state court bellwether, the Administrator will confirm that designation prior to reviewing the Subdivision applicant's request for reimbursement of the cost of in-house employees. If your Subdivision was designated as a federal or state court bellwether, you or your outside counsel would know.

Receipts/Proof of Payment

19. *I don't need to submit any cost backup during the initial application process, correct? I only need to submit backup when and if the Administrator requests it?*

Correct. However, start gathering cost backup information now and be prepared to submit it within 30 days' notice.

20. *For receipts that have already been submitted as part of my monthly reports, will I need to resubmit them in response to the audit?*

No. But if receipts were not submitted in a way that permits the Administrator to easily locate and match them to the submitted expenses, or the Administrator concludes the receipts are

not sufficient proof of payment, the Administrator may request that you submit additional documentation.

21. Are there any specific costs that are automatically subjected to proof of receipts, such as hotels or flights?

The Administrator has not yet made that determination, but we will be providing more guidance as we approach the audit process. You should begin preparing your expense backup, starting with your largest expenses and then work your way down from there.