

July 19, 2022

**VIA USPS**

Ms. Polly Irving, County Clerk  
Muskogee County Courthouse  
P. O. Box 1008  
Muskogee, OK 74402

Dear Ms. Irving,

**RE: ATTORNEY-CLIENT PRIVILEGED CONFIDENTIAL COMMUNICATION - POLITICAL  
SUBDIVISION OPIOID LITIGATION SETTLEMENT UPDATE**

The following is a summary of the recent opioid settlement and approved opioid manufacturer bankruptcy plan involving Oklahoma political subdivisions. In order to receive any funds, these items must be placed on meeting agendas, in executive session, for consideration and approval. It is also extremely important you understand that any funds received by a political subdivision, under any settlement or bankruptcy, shall only be used for combatting the opioid epidemic. The communications herein are confidential and protected by the attorney client privilege so please do not share them with anyone other than those who need to know and only in executive session.

**Distributor Settlement**

The Attorney General signed the Distributors Oklahoma Settlement Agreement on June 24, 2022. You may have seen news reports of the Attorney General's press release. This settlement involves the three largest opioid distributors in the United States. Each of the three distributors have approved and signed the settlement agreement. These distributors are Cardinal Health, Inc., McKesson Corporation, and AmerisourceBergen Corporation.

The most that can be recovered under the settlement agreement is approximately \$293,000,000. The litigating subdivisions will get 25% of the recovery less fees and expenses. In order to recover the full amount, we will need full participation from the litigating subdivisions and 39 non-litigating subdivisions that have populations over 10,000. The 80 litigating subdivisions and the 39 non-litigating subdivisions are considered primary subdivisions that we need to achieve maximum payout. The State is responsible for getting the participation of the necessary non-litigating subdivisions. The maximum amount the litigating subdivisions can receive is approximately \$73,000,000.

We will be sending you the entire Settlement Agreement via email, which incorporates the Global Settlement by the Distributors as an exhibit. We will also be sending you an allocation matrix for the Oklahoma litigating political subdivisions, a copy of the Participation/Release Form and a white paper on the approved abatement purposes.

Participation of 100% is key to getting the maximum settlement amount from the distributors, and in turn, the maximum allocation to your county. While we are working under an outside deadline

of September 23, 2022 for participation, the earlier we can submit approval, the better we can work with you on any questions you may have regarding the settlement. **As a result, please contact our office no later than August 1, 2022, in order for this to be placed on your Board of County Commissioners meeting agenda for executive session. We can attend by phone, Zoom (or other virtual meeting applications) or in person. A signed Participation/Release Form is required for your county to receive its allocation.** Our office will also be contacting county clerks to have this placed on meeting agendas. All questions and requests can be sent to [ccole@fulmersill.com](mailto:ccole@fulmersill.com) (Carter Cole). Please keep in mind we have worked closely with the State and the Attorney General and have spent several months in negotiations and we firmly believe this is the best outcome and settlement for all Oklahoma political subdivisions.

Also, you should be receiving an email from Rubris ([crosslinksupport@rubris.com](mailto:crosslinksupport@rubris.com)) regarding whether we represent you. Please confirm as this will expedite the process.

**Mallinckrodt Bankruptcy:**

We are currently attempting to negotiate a sharing agreement with the state for the distributions to be received from the Mallinckrodt bankruptcy. The gross amount that Oklahoma will receive is unknown at this time. We are hopeful that we will have a sharing agreement entered into in short order. It will involve the litigating subdivisions receiving a certain percentage, probably 25% of the gross settlement for Oklahoma as with the Distributor Settlement. The allocation matrix will be the same as the Distributor Settlement. We need to file the Sharing Agreement by August 12, 2022, to avoid the default allocations under the bankruptcy plan. **As a result, please contact our office no later than August 1, 2022, in order for this to be placed on your Board of County Commissioners meeting agenda for executive session. We can attend by phone, Zoom (or other virtual meeting applications) or in person.** Our office will also be contacting county clerks to have this placed on meeting agendas. All questions and requests can be sent to [ccole@fulmersill.com](mailto:ccole@fulmersill.com) (Carter Cole).

If you have questions, let us know.

Sincerely,



Matthew J. Sill

**Exhibit G**  
**Subdivision Settlement Participation Form**

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (the "Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated June 24, 2022 (the "Distributors Oklahoma Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Distributors Oklahoma Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributors Oklahoma Settlement, including Exhibit I thereto, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributors Oklahoma Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of October 1, 2022 and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributors Oklahoma Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributors Oklahoma Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after December 1, 2022.
5. The Governmental Entity agrees to use any monies it receives through the Distributors Oklahoma Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Oklahoma Court for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributors Oklahoma Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the Distributors Oklahoma Settlement.
7. The Governmental Entity has the right to enforce the Distributors Oklahoma Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributors Oklahoma Settlement, including, but not limited to, all provisions of Section XI of Exhibit I thereto, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributors Oklahoma Settlement are intended by the Agreement Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributors Oklahoma Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributors Oklahoma Settlement.
10. In connection with the releases provided for in the Distributors Oklahoma Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date the Distributors Oklahoma Settlement becomes effective pursuant to Section II.B of the Distributors Oklahoma Settlement, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributors Oklahoma Settlement.

11. Nothing herein is intended to modify in any way the terms of the Distributors Oklahoma Settlement, to which the Governmental Entity hereby agrees. To the extent this Participation Form is worded differently from Exhibit G to the Distributors Oklahoma

Settlement or interpreted differently from the Distributors Oklahoma Settlement in any respect, the Distributors Oklahoma Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: Joseph W. Payne

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

8 day of Aug 2022

Chairman Joseph W. Payne

Member [Signature]

Member [Signature]

Attest Polly Irving by \_\_\_\_\_

Shirley Hanna County Clerk



## Exhibit B

The initial allocations are shown on Table 1. Ten percent (10%) of funds received will be held back from this initial allocation to establish an Appeal Fund for any Participating Subdivision to appeal their allocation of settlement funds as set forth in this exhibit, and to pay administrative costs. Each participating subdivision will have six months after receipt of their allocation to appeal to a Special Master appointed to hear appeals. If all the money in the Appeal Fund is not distributed through the appeals process, it will be redistributed in accordance with Table 2 below. The allocations shown below will be further reduced for the payment of attorneys' fees and costs in accordance with each locality's representation agreement with their counsel.

Table 1: Opioid Settlement Allocation Shares to Litigating Oklahoma Counties, Cities and Towns,  
with 10% Holdback

Municipal Area	Area % of Total	Municipal Area	Area % of Total
City of Ada	1.150%	Lincoln County	0.358%
City of Altus	0.090%	Logan County	0.760%
City of Anadarko	0.320%	Love County	0.144%
Atoka County	0.283%	Major County	0.016%
Beckham County	0.252%	Mayes County	0.668%
City of Bethany	0.348%	McClain County	0.284%
City of Broken Arrow	2.831%	McCurtain County	0.624%
Caddo County	0.428%	City of Midwest City	1.917%
Choctaw County	0.295%	City of Muskogee	2.976%
Cimarron County	0.046%	Muskogee County	0.153%
Cleveland County	0.372%	City of Mustang	0.225%
Coal County	0.144%	Noble County	0.040%
City of Collinsville	0.173%	Nowata County	0.109%
Comanche County	3.101%	Okfuskee County	0.204%
Craig County	0.144%	City of Oklahoma City	20.187%
Creek County	1.137%	Oklahoma County	4.021%
Custer County	0.278%	Okmulgee County	0.305%
Delaware County	0.336%	Osage County	0.647%
Dewey County	0.017%	Ottawa County	0.258%
City of Edmond	2.051%	City of Owasso	1.034%
City of El Reno	0.279%	Pawnee County	0.316%
City of Elk City	0.448%	Payne County	0.513%
City of Enid	1.042%	Pittsburg County	0.140%
Garvin County	0.115%	City of Ponca City	0.626%
Grady County	1.418%	Pottawatomie County	0.705%
Greer County	0.059%	Roger Mills County	0.080%
City of Guthrie	0.298%	Rogers County	1.266%
Harmon County	0.042%	City of Seminole	0.344%
Harper County	0.057%	Seminole County	0.433%
Haskell County	0.224%	City of Shawnee	1.601%
Hughes County	0.172%	Stephens County	0.599%
Jackson County	0.696%	City of Stillwater	1.244%
Jefferson County	0.189%	Texas County	0.448%
City of Jenks	0.249%	Tillman County	0.132%
Johnston County	0.227%	City of Tulsa	16.441%
Kay County	0.437%	Tulsa County	7.121%
Kiowa County	0.155%	Washington County	0.510%
Latimer County	0.357%	Woods County	0.041%
City of Lawton	0.496%	Woodward County	0.198%
LeFlore County	1.135%	City of Yukon	0.421%

Table 2: Opioid Settlement Allocation Shares to Litigating Oklahoma Counties, Cities and Towns

Municipal Area	Area % of Total	Municipal Area	Area % of Total
City of Ada	1.278%	Lincoln County	0.398%
City of Altus	0.101%	Logan County	0.845%
City of Anadarko	0.356%	Love County	0.160%
Atoka County	0.315%	Major County	0.018%
Beckham County	0.280%	Mayes County	0.742%
City of Bethany	0.387%	McClain County	0.316%
City of Broken Arrow	3.146%	McCurtain County	0.694%
Caddo County	0.475%	City of Midwest City	2.130%
Choctaw County	0.328%	City of Muskogee	3.307%
Cimarron County	0.051%	Muskogee County	0.170%
Cleveland County	0.413%	City of Mustang	0.249%
Coal County	0.160%	Noble County	0.045%
City of Collinsville	0.192%	Nowata County	0.121%
Comanche County	3.445%	Okfuskee County	0.227%
Craig County	0.160%	City of Oklahoma City	22.430%
Creek County	1.263%	Oklahoma County	4.468%
Custer County	0.309%	Okmulgee County	0.339%
Delaware County	0.373%	Osage County	0.719%
Dewey County	0.019%	Ottawa County	0.287%
City of Edmond	2.279%	City of Owasso	1.148%
City of El Reno	0.310%	Pawnee County	0.351%
City of Elk City	0.498%	Payne County	0.570%
City of Enid	1.158%	Pittsburg County	0.155%
Garvin County	0.127%	City of Ponca City	0.695%
Grady County	1.575%	Pottawatomie County	0.783%
Greer County	0.066%	Roger Mills County	0.089%
City of Guthrie	0.331%	Rogers County	1.406%
Harmon County	0.046%	City of Seminole	0.382%
Harper County	0.063%	Seminole County	0.481%
Haskell County	0.249%	City of Shawnee	1.779%
Hughes County	0.191%	Stephens County	0.666%
Jackson County	0.773%	City of Stillwater	1.382%
Jefferson County	0.210%	Texas County	0.497%
City of Jenks	0.277%	Tillman County	0.147%
Johnston County	0.252%	City of Tulsa	18.267%
Kay County	0.486%	Tulsa County	7.912%
Kiowa County	0.172%	Washington County	0.566%
Latimer County	0.396%	Woods County	0.046%
City of Lawton	0.552%	Woodward County	0.220%
LeFlore County	1.261%	City of Yukon	0.468%



**White Paper on Abatement Purposes**  
**under the Distributor Oklahoma Settlement Agreement**

**Summary**

The allocations that Oklahoma divisions receive under the Distributor Oklahoma Settlement Agreement (“Distributor Oklahoma Agreement”) are subject to several provisions in the settlement agreement:

1. Of the total amount paid to a subdivision, 85% must be used for Opioid Remediation.
2. Opioid Remediation is defined as “care, treatment, and other programs and expenditures ... designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, and (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic.”
3. Exhibit E to the distributors’ global settlement contains lists of 9 core strategies and 112 specific Opioid Remediation uses.
4. The settlement agreement contains enforcement provisions for distributors in the event a subdivision does not use 85% of the total amount it receives on Opioid Remediation.
5. Subdivisions should retain documentation of the Opioid Remediation uses they implement.

**Detailed Discussion**

The Distributor Oklahoma Agreement provides:

The Oklahoma Abatement amount paid under this Agreement shall be used as provided for in Section V.B of Exhibit I. In addition, at least eighty-five percent (85%) of the total amount paid under this Agreement, including amounts paid under section IV.A and amounts paid under Section V, shall be used for Opioid Remediation. Nothing herein shall affect the allocation of the Oklahoma Abatement Amount payments between the State and its Participating Subdivision, which shall be governed by a separate State-Subdivision Agreement.

(Distributor Oklahoma Settlement, Section IV.B. Use of Payment.)

Exhibit I to the Distributor Oklahoma Agreement is the Distributor Settlement Agreement applicable to all states that opt-in to the agreement (“Distributor Global Agreement”). In Exhibit I, the term “Opioid Remediation” is defined as:

Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the

Part Two, Prevention, lists these specific uses:

- F. Prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids;
- G. Prevent misuse of opioids;
- H. Prevent overdose deaths and other harms (harm reduction);

Part Three, Other Strategies, lists these specific uses:

- I. First responders;
- J. Leadership, planning and coordination;
- K. Training;
- L. Research.

The detailed descriptions of each purpose provide guidance on how subdivisions may direct their allocations to support these purposes with language, such as:

- “expand availability of treatment,”
- “support and reimburse evidence-based services ... of care for OUD,”
- “support mobile intervention, treatment, and recovery services,”
- “provide treatment for trauma for individuals with OUD,”
- “provide training on MAT for health care providers, first responders, students,, or other supporting professionals,”
- “provide comprehensive wrap-around services to individuals with OUD,”
- “provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD,”
- “engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family,”
- “provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma,”
- “create and/or support recovery high schools,”
- “hire or train behavioral health workers to provide or expand any of the services or supports listed” in B;
- “support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD;”
- “provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery house, or similar settings,”
- “create or support school-based contacts that parents can engage with to seek immediate treatment services for their child,”
- “support prevention, intervention, treatment, and recovery programs focused on young people,”
- “develop and support best practices on addressing OUD in the workplace,”

In the event the Settling Distributors believe that the 85% threshold is not being satisfied, any party may request that the Settling Distributors and Enforcement Committee meet and confer regarding the use of funds. Further action shall be limited to the Settling Distributors seeking to reduce their annual payments by no more than 5% of the difference between the actual amount of Opioid Remediation and the 85% threshold. Only the annual payments to those Settling States and their Participating Subdivisions that are below the 85% threshold may be reduced. Section VI.C.2. of Exhibit I.

Participating Subdivisions which use monies for purposes that do not qualify as Opioid Remediation must submit a report to the Directing Administrator of the Settlement Fund. Not submitting a such a report is treated as confirmation that the Participating Subdivision did not have any uses of funds that were not for Opioid Remediation. Ex. L, V.A.i., of Exhibit I.

The Settlement Administrators are required to track and assist in the report of the amount of remediation disbursed or applied during each fiscal year, broken down by primary funded category listed in Exhibit E. The Settlement Fund Administrator shall track and assist in the report of remediation disbursements as agreed to among the Settling Distributors and the Enforcement Committee. Section V.E.3. of Exhibit I.

The Memorandum of Understanding (State-Subdivision Agreement) with the State requires allocations to Participating Subdivisions be used for abatement of the opioid crisis in the State and in a manner constituent with the definition of "approved purposes" as set forth in 74 Okla. Stat. Section 30.5. This section of the Political Subdivisions Opioid Abatement Grants Act lists 21 approved purposes for abatement of the opioid crisis. These 21 approved purposes are largely consistent with, but less detailed than, the remediation strategies in Exhibit E to the Distributor Global Settlement, discussed above. Subdivisions that use allocations for the remediation strategies in Exhibit E will also be using allocations of an approved purposed under Section 30.5.

While neither the Distributor Global Agreement (Exhibit I), nor the Distributor Oklahoma Agreement expressly requires documentation of the use of allocations from the settlement, subdivisions should maintain detailed records of their use of settlement funds due to the enforcement provisions in the global settlement and to establish the subdivisions' compliance with the terms of the Distributor Oklahoma Agreement.