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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: MCKINSEY & CO., INC.
NATIONAL PRESCRIPTION OPIATE
CONSULTANT LITIGATION

This Document Relates to:
ALL TRIBAL ACTIONS

Case No. 21-md-02996-CRB (SK)

**SETTLEMENT AGREEMENT AMONG
TRIBES AND MCKINSEY DEFENDANTS**

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McKINSEY TRIBAL SETTLEMENT AGREEMENT

This McKinsey Settlement Agreement dated as of August 16, 2023 (this “*Agreement*”) sets forth the terms of settlement between and among the Participating Tribes and McKinsey (in each case as defined below), to take effect as of the Effective Date (as defined below).

TABLE OF CONTENTS

I. Definitions..... 2
II. Release 8
III. Monetary Relief and Payments 9
IV. Condition to Effectiveness of Agreement 10
V. Allocation and Use of Settlement Funds..... 11
VI. Participation by Tribes 14
VII. Defendants to be Released Upon Meeting Threshold Requirements..... 15
VIII. Plaintiffs’ Attorneys’ Fees and Costs..... 16
IX. Dispute Resolution 16
X. Miscellaneous..... 16

1 **I. Definitions**

2 Unless otherwise specified, the following definitions apply:

3 1. “*Action*” means any lawsuit brought on behalf of any Tribe against
4 Defendants or against any of them, including without limitation all cases listed on Exhibit A-1
5 annexed hereto.

6 2. “*Agreement*” means this McKinsey Settlement Agreement, inclusive of all
7 Exhibits.

8 3. “*Alleged Harms*” means the alleged past, present, and future financial,
9 societal, and public nuisance harms and related expenditures arising out of the alleged misuse and
10 abuse of opioid products, non-exclusive examples of which are described in the documents listed
11 on **Exhibit B**, including those expenditures that have allegedly arisen as a result of the physical
12 and bodily injuries sustained by individuals suffering from opioid-related addiction, abuse, death,
13 and other related diseases and disorders, and that have allegedly been caused by McKinsey.

14 4. “*Claim*” means any past, present or future cause of action, claim for relief,
15 cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment,
16 charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit,
17 contract, controversy, agreement, parens patriae claim, promise, performance, warranty,
18 omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or
19 administrative, whether arising under federal, state or local common law, statute, regulation,
20 guidance, ordinance or principles of equity, whether filed or unfiled, alleged in any of the Actions
21 or otherwise arising from the Covered Conduct, asserted or unasserted, known or unknown,
22 accrued or unaccrued, foreseen, unforeseen or unforeseeable, discovered or undiscovered,
23 suspected or unsuspected, fixed or contingent, existing or hereafter arising, including but not
24 limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or
25 statutory damages, absolute liability, strict liability, restitution, abatement, subrogation,
26 contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees,
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1 consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative,
2 or regulatory remedy whatsoever.

3 5. “*Common Benefit Attorney Fee Fund*” means a segregated fund set aside to
4 pay common benefit attorneys’ fees and reimburse common benefit attorneys’ costs in
5 accordance with Section III.A.3 of this Agreement.

6 6. “*Covered Conduct*” means any and all actual or alleged acts, failures to act,
7 negligence, conduct, statements, errors, omissions, events, breaches of duty, services, advice,
8 work, deliverables, engagements, transactions, agreements, misstatements, or other activity of any
9 kind whatsoever, occurring up to and including the Effective Date (and any past, present, or
10 future consequence of any such acts, failures to act, negligence, conduct, statements, errors,
11 omissions, events, breaches of duty, services, advice, work, deliverables, engagements,
12 transactions, agreements, misstatements, or other activity of any kind whatsoever, occurring up to
13 and including the Effective Date) arising from or relating in any way to (a) the packaging,
14 repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution,
15 delivery, monitoring, reporting, supply, or sale of any Opioid Product, or any system, plan,
16 policy, or advocacy relating to any Opioid Product or class of Opioid Products, including but not
17 limited to any unbranded promotion, marketing, programs, or campaigns relating to any Opioid
18 Product or class of Opioid Products; (b) the characteristics, properties, risks, or benefits of any
19 Opioid Product; (c) the reporting, disclosure, non-reporting or non-disclosure to federal or state
20 regulators of orders placed with any Released Entity; (d) diversion control programs or suspicious
21 order monitoring; (e) consulting advice McKinsey provided or failed to provide to any opioid
22 manufacturer or distributor or pharmacy or other entity in the opioid supply chain, or consulting
23 advice McKinsey provided or failed to provide to any government or government body with
24 authority to regulate opioid products in any manner, or consulting advice McKinsey provided or
25 failed to provide to any other third party concerning (i) the discovery, development, manufacture,
26 marketing, promotion, advertising, recall, withdrawal, distribution, monitoring, supply, sale,
27 prescribing, reimbursement, use, regulation, or abuse of any opioid, or (ii) the treatment of opioid
28 abuse or efforts to combat the opioid crisis, or (iii) the characteristics, properties, risks, or benefits

1 of any opioid; or (f) the spoliation of any materials in connection with or concerning any of the
2 foregoing.

3 7. “*Effective Date*” means 120 calendar days from the date of full execution
4 of this agreement, or ten days after the conditions set forth in Section IV have been met,
5 whichever is later.

6 8. “*Eligible Entities*” has the meaning set forth in Section VI.E.

7 9. “*Escrow Agent*” means Citibank.

8 10. “*Litigating Tribe*” means a Tribe or tribal organization (or Tribe official
9 asserting the right of or for the Tribe to recover for Alleged Harms to the Tribe and/or its
10 members) that (i) is identified on **Exhibit A-1**, or (ii) has brought any Released Claims against
11 any Released Entities.

12 11. “*McKinsey*” means McKinsey & Company, Inc., McKinsey Holdings,
13 Inc., McKinsey & Company, Inc. United States, and McKinsey & Company, Inc. Washington,
14 D.C.

15 12. “*McKinsey Tribal Settlement Trust*” means the interest-bearing fund to be
16 held by the Escrow Agent into which all payments by McKinsey will be made, and which is
17 intended to qualify as a “qualified settlement fund” within the meaning of Section 1.468B-1 *et*
18 *seq.* of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code
19 of 1986, as amended.

20 13. “*MDL Court*” means the United States District Court for the Northern
21 District of California.

22 14. “*Non-Litigating Tribes*” means those Tribes that have not brought any
23 Released Claims against Released Entities and are not set forth on **Exhibit A-1**. **Exhibit A-2** is
24 intended to identify all Non-Litigating Tribes, provided, however, that to the extent there is any
25 conflict between **Exhibit A-2** and the definitions of Litigating Tribe and/or Non-Litigating Tribe,
26 the definitions control.

27 15. “*Non-Participating Tribe*” means any Tribe that does not execute a Tribal
28 Participation Form within one year of the Effective Date of this Agreement or any Tribe that,

1 within one year of the Effective Date of this Agreement, files a lawsuit or other action to litigate
2 its Claims against McKinsey.

3 16. “*Ongoing Common Benefit Order*” has the meaning set forth in Section
4 III.A.3.

5 17. “*Opioid Remediation*” means care, treatment, and other programs and
6 expenditures (including reimbursement for past such programs or expenditures except where this
7 Agreement restricts the use of funds solely to future Opioid Remediation) designed to remediate
8 Alleged Harms, including to (1) address the misuse and abuse of opioid products, (2) treat or
9 mitigate opioid use or related disorders, or (3) mitigate other alleged effects of the opioid abuse
10 crisis, including on those injured as a result of the opioid abuse crisis. **Exhibit C** attached to this
11 Agreement provides a list of programs, services and activities that qualify as expenditures for
12 Opioid Remediation. In addition, **Exhibit D** attached to this Agreement provides a non-
13 exhaustive list of Tribal Abatement Strategies that also qualify as expenditures for Opioid
14 Remediation. Qualifying expenditures may include reasonable related administrative expenses.

15 18. “*Participating Tribe*” means any Tribe or tribal organization that executes
16 a Tribal Participation Form and uploads the Tribal Participation Form on the Portal within one
17 year of the Effective Date.

18 19. “*Parties*” means McKinsey and Participating Tribes (each, a “*Party*”).

19 20. “*Portal*” means the Tribal Opioid Settlement Portal at which (a) the Tribal
20 Participation Agreements shall be received and maintained by Plaintiffs’ Lead Counsel for review
21 and approval by McKinsey and (b) the information related to the Tribal Allocation Distribution
22 Percentage shall be maintained.

23 21. “*Product*” means any chemical substance, whether used for medicinal or
24 non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished
25 pharmaceutical product made from or with such substance, that is (1) an opioid or opiate, as well
26 as any product containing any such substance; (2) a benzodiazepine, a muscle relaxer,
27 carisoprodol, zolpidem, or gabapentin; or (3) a combination or “cocktail” of any stimulant or
28 other chemical substance prescribed, sold, bought, or dispensed to be used together that includes

1 opioids or opiates. “Product” shall include, but is not limited to, any substance consisting of or
2 containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine,
3 methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol,
4 opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam,
5 flurazepam, triazolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these
6 substances or any similar substance.

7 22. “Released Claims” means any and all Claims, including Unknown Claims,
8 that (a) directly or indirectly are based on, arise out of, or in any way relate to or concern Covered
9 Conduct, or (b) in any way relate to or concern allegations that have been asserted in any of the
10 Actions, or that could have been alleged in any of the Actions, or (c) result from or relate to a
11 continuation or continuing effect of any such conduct, acts, transactions, events, occurrences,
12 statements, omissions, or failures to act in any of the Actions. Without limiting the foregoing,
13 “Released Claims” include any Claims that have been asserted against the Released Entities by
14 any Tribe in any federal, state, or local action or proceeding (whether judicial, arbitral, or
15 administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct
16 and/or Alleged Harms, or any such Claims that could be or could have been asserted now or in
17 the future in those actions or in any comparable action or proceeding brought by a Tribe or any
18 Releasers (whether or not such Tribe or Releaser has brought such action or proceeding).
19 Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to
20 the Agreement, whether or not such claims relate to Covered Conduct and/or Alleged Harms.
21 The Parties intend that “Released Claims” be interpreted broadly. This Agreement does not
22 release Claims by private individuals for any of their own damages for alleged personal injuries
23 arising out of their use of any Product except insofar as any private individuals are plaintiffs in
24 any of the cases filed by the Settling Parties. But in any action arising from or relating to such
25 Claims or the Covered Conduct and/or Alleged Harms, the Released Entities may assert as a
26 defense or otherwise argue that the payments required herein serve as a measure of compensation
27 for personal injuries or for other legal or equitable claims or demands asserted by private
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1 individuals or others. It is the intent of the Parties that Claims by private individuals be treated in
2 accordance with applicable law.

3 23. *“Released Entities”* has the meaning set forth in Section VII.

4 24. *“Releasers”* means (1) each Participating Tribe; and (2) without limitation
5 and to the maximum extent of the power of each Participating Tribe to release Claims, (a) the
6 Participating Tribe’s departments, agencies, divisions, boards, commissions, subdivisions,
7 districts, instrumentalities of any kind and attorneys, and any person in their official capacity
8 whether elected or appointed to serve any of the foregoing and any agency, person, or other entity
9 claiming by or through any of the foregoing, (b) any public entities, public instrumentalities,
10 public educational institutions, unincorporated districts, fire districts, irrigation districts, water
11 districts, law enforcement districts, emergency services districts, school districts, and hospital
12 districts, of the Participating Tribes, within the territory governed by a Participating Tribe, and (c)
13 any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney
14 general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to
15 the general public with respect to a Participating Tribe, whether or not any of them participate in
16 the Agreement.

17 25. *“Total Remediation Amount”* has the meaning set forth in Section V.B.1.

18 26. *“Tribal Allocation Distribution Percentage”* means a Tribe’s percentage as
19 determined in Tribal Allocation Order No. 2 (May 16, 2023) issued by Special Master David
20 Cohen and Layn Phillips in MDL 2804. The aggregate Tribal Allocation Distribution
21 Percentages of all Tribes shall equal 100%.

22 27. *“Tribal Participation Form”* means the form attached hereto as **Exhibit E**.

23 28. *“Tribal organization”* means a “tribal organization” as defined in 25 U.S.C.
24 § 5304(l), or an “inter-tribal consortium,” as defined in 25 U.S.C. § 5381(a)(5), that provides
25 health care pursuant to contracts or compacts with the Indian Health Service.

26 29. *“Tribe”* or *“Tribes”* means one or more Eligible Entity set forth on **Exhibit**
27 **A-1** or **Exhibit A-2** of this Agreement.

28

1 **II. Release**

2 A. *Scope.* As of the Effective Date, the Released Entities will be released and forever
3 discharged from all of the Releasors' Released Claims. Each Participating Tribe (for itself and its
4 Releasors) will absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim,
5 or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to
6 establish liability for any Released Claims against any Released Entity in any forum whatsoever.
7 The releases provided for in this Agreement are intended by the Parties to be broad and shall be
8 interpreted so as to give the Released Entities the broadest possible bar against any liability
9 relating in any way to Released Claims and extend to the full extent of the power of each
10 Releasor to release claims. The releases shall be a complete bar to any Released Claim.

11 B. *General Release.* In connection with the releases provided for in the Agreement,
12 each Participating Tribe (for itself and its Releasors) expressly waives, releases, and forever
13 discharges any and all provisions, rights, and benefits conferred by any law of any state or
14 territory of the United States or other jurisdiction, or principle of common law, which is similar,
15 comparable, or equivalent to § 1542 of the California Civil Code, which reads:

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

19 A Releasor may hereafter discover facts other than or different from those which it
20 knows, believes, or assumes to be true with respect to the Released Claims, but each
21 Participating Tribe (for itself and its Releasors) hereby expressly waives and fully, finally, and
22 forever settles, releases, and discharges, upon the Effective Date, any and all Released Claims
23 that may exist as of such date but which Releasors do not know or suspect to exist, whether
24 through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if
25 known, would materially affect the Participating Tribes' decision to enter into the Agreement
26 or the Participating Tribes' decision to participate in the Agreement.

27 C. *Res Judicata.* Nothing in the Agreement shall be deemed to reduce the scope of
28 the res judicata or claim preclusive effect that the settlement memorialized in the Agreement,

1 and/or any stipulation of dismissal with prejudice or judgment entered on the Agreement, gives
2 rise to under applicable law.

3 D. *Representation and Warranty.* The signatories hereto warrant that they have
4 authority to enter this agreement on behalf of the Participating Tribes and that the Participating
5 Tribes will obtain on or before the Effective Date (or have obtained) the authority to settle and
6 release, to the maximum extent of the Tribe's power, all Released Claims of (1) their respective
7 Participating Tribes; and (2) all Releasors of their respective Participating Tribes.

8 E. *Effectiveness.* The releases set forth in the Agreement shall not be impacted in any
9 way by any dispute that exists, has existed, or may later exist between or among the Releasors.
10 Nor shall such releases be impacted in any way by any current or future law, regulation,
11 ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the
12 McKinsey Tribal Settlement Trust or any portion thereof, or by the enactment of future laws, or
13 by any seizure of the McKinsey Tribal Settlement Trust or any portion thereof.

14 F. *Cooperation.* Releasors (i) will not encourage any person or entity to bring or
15 maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with
16 and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all
17 Released Claims. Any Participating Tribes shall use best efforts to assist in the stay of any
18 actions brought by Non-Participating Tribes during the pendency of the sign-up period for Tribes.

19 G. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition
20 of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims
21 for any outstanding liability under any tax or securities law, Claims against parties who are not
22 Released Entities, and any claims arising under this Agreement for enforcement of this
23 Agreement.

24 **III. Monetary Relief and Payments**

25 A. *Structure of Payments*

26 1. All payments under this Section III shall be made into the McKinsey Tribal
27 Settlement Trust. The payments in the McKinsey Tribal Settlement Trust shall be allocated and
28 used only as specified in Section V of this Agreement.

1 2. On the tenth day after the Effective Date, McKinsey shall pay into the
2 McKinsey Tribal Settlement Trust the sum of \$39,500,000 (United States dollars), under the
3 terms and conditions of this Agreement.

4 3. McKinsey’s payment into the McKinsey Tribal Settlement Trust includes
5 the amount necessary to comply with Pretrial Order No. 9 (Dkt. # 567) in *In re McKinsey & Co.,*
6 *Inc. National Prescription Opiate Consultant Litigation*, case no. 21-md-01996-CRB (SK),
7 pending in the United States District Court for the Northern District of California (the “Common
8 Benefit Order”). The Escrow Agent, as specified in Paragraph 12 of Pretrial Order No. 9, shall
9 hold the amount necessary to ensure compliance with the Common Benefit Order until further
10 order by the MDL Court. It is understood that McKinsey’s Payment into the McKinsey Tribal
11 Settlement Trust under III.A.2 fulfills its obligations under the Common Benefit Order.

12 **IV. Condition to Effectiveness of Agreement**

13 A. *Determination to Proceed With Settlement.*

14 1. No later than ninety (90) days from the date of full execution of this
15 Agreement (or such later time as shall have been agreed to between the parties under
16 subparagraph (3)), Plaintiffs’ Lead Counsel and Plaintiffs’ Steering Committee Tribal
17 Representative shall provide McKinsey with full information about the level of participation by
18 Litigating and Non-Litigating Tribes, including the identity of each Tribe that has uploaded an
19 executed Tribal Participation Form to the Portal.

20 2. Within thirty (30) calendar days of receiving the information described in
21 subparagraph (1), McKinsey shall determine whether or not to proceed with this Agreement and
22 shall provide written notice of its determination to Plaintiffs’ Lead Counsel and Plaintiffs’
23 Steering Committee Tribal Representative . This determination shall be in the sole discretion of
24 McKinsey and may be based on any criteria or factors deemed relevant by McKinsey.

25 3. Nothing in this Agreement shall be interpreted to bar the parties from
26 agreeing in writing to extend the ninety-day period or the thirty-day period set forth herein, in
27 which case all other dates shall be adjusted accordingly.

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1 B. *Agreement by McKinsey.* If McKinsey determines to proceed, the obligations in
2 the Participation Forms will be effective and binding as of the date of McKinsey’s notice to
3 Plaintiffs’ Lead Counsel and Plaintiffs’ Steering Committee Tribal Representative. If McKinsey
4 determines not to proceed, this Agreement will have no further effect, any amounts placed in
5 escrow shall be returned to McKinsey less administrative costs incurred, and all releases
6 (including those contained in Participation Forms) and other commitments or obligations
7 contained herein will be void.

8 **V. Allocation and Use of Settlement Funds**

9 A. *Components of Settlement Fund.* Subject to Section III.A, the McKinsey Tribal
10 Settlement Trust shall be comprised of funds earmarked for Opioid Remediation and all
11 attorneys’ fees, including funds for the Common Benefit Attorney Fee Fund.

12 B. *Use of Settlement Payments.*

13 1. The Escrow Agent shall transfer funds from the McKinsey Tribal
14 Settlement Trust, within sixty days after receiving the funds from McKinsey pursuant to Section
15 III.A.2, as follows: 85% of such funds (the “Total Remediation Amount”) shall be paid to
16 Participating Tribes to use for Opioid Remediation; and 15% of such funds shall be transferred to
17 Plaintiffs’ Lead Counsel to be held in (a) a subaccount constituting the Common Benefit Attorney
18 Fee Fund including the portion to be withheld pursuant to Section III.A.3, and (b) a subaccount
19 holding all remaining attorneys’ fees and costs.

20 2. Plaintiffs’ Lead Counsel shall set aside and hold back the funds allocable to
21 each of the following Tribes proportionate to the Tribe’s Tribal Allocation Distribution
22 Percentage:

23 a. A Non-Litigating Tribe that has not become a Participating Tribe at
24 the time of such distribution, and the provisions of Section V.C.1 shall apply with respect to such
25 Non-Litigating Tribe.

26 b. A Litigating Tribe that has not become a Participating Tribe at the
27 time of such distribution, and the provisions of Section V.C.2 shall apply with respect to such
28 Litigating Tribe.

1 3. The Parties acknowledge and agree that the payments disbursed to the
2 Tribes in accordance with this Section V are exclusively for Opioid Remediation.

3 C. *Treatment of Non-Participating Tribes.*

4 1. Non-Litigating Tribes. Non-Litigating Tribes shall have a period of one
5 year after the Effective Date to execute a Tribal Participation Form. If a Non-Litigating Tribe
6 executes a Tribal Participation Form within one year after the Effective Date, it shall receive the
7 amount (including accumulated holdback amounts) allocable to its Tribal Allocation Distribution
8 Percentage. If a Non-Litigating Tribe does not execute a Tribal Participation Form within one
9 year after the Effective Date, the amount (including accumulated holdback amounts) allocable to
10 its Tribal Allocation Distribution Percentage will be reallocated and paid to all Participating
11 Tribes pro rata at the end of the one year period following the Effective Date, provided however
12 that if a Non-Litigating Tribe does not execute a Tribal Participation Form within one year after
13 the Effective Date but files Released Claims against one or more Released Entities anytime in that
14 same one year period, the amount (including accumulated holdback amounts) allocable to such
15 Non-Litigating Tribe pursuant to its Tribal Allocation Distribution Percentage shall revert to
16 McKinsey, to be paid to McKinsey within sixty (60) days after the first anniversary of the
17 Effective Date.

18 2. Litigating Tribes. Any Litigating Tribe that does not execute a Tribal
19 Participation Form within one year after the Effective Date of this Agreement, or any Litigating
20 Tribe that affirmatively opt-outs of this settlement and provides written notice to the Plaintiffs'
21 Lead Counsel and Plaintiffs' Steering Committee Tribal Representative of its intent to litigate any
22 Released Claims against any Released Entities, shall forego its right to participate in distributions
23 contemplated by this Agreement, in which case the amount (including accumulated holdback
24 amounts) allocable to such Litigating Tribe pursuant to its Tribal Allocation Distribution
25 Percentage shall revert to McKinsey, to be paid to McKinsey within sixty (60) days after the first
26 anniversary of the Effective Date.

1 D. *Nature of Payment.*

2 1. McKinsey and Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee
3 Tribal Representative acknowledge and agree that notwithstanding anything to the contrary in this
4 Agreement, including, but not limited to, the scope of the Released Claims:

5 a. McKinsey has entered into this Agreement to avoid the delay,
6 expense, inconvenience, and uncertainty of further litigation;

7 b. Tribes sought compensatory remediation (within the meaning of 26
8 U.S.C. § 162(f)(2)(A)) as damages for the Alleged Harms allegedly suffered by the Tribes;

9 c. By executing the Tribal Participation Form, the Participating Tribes
10 acknowledge that: (a) the Total Remediation Amount is no greater than the amount, in the
11 aggregate, of the Alleged Harms allegedly suffered by the Participating Tribes; and (b) the
12 portion of the Total Remediation Amount received by each Participating Tribe is no greater than
13 the amount of the Alleged Harms allegedly suffered by such Participating Tribe;

14 d. The payment of the Total Remediation Amount by McKinsey
15 constitutes, and is paid for, compensatory remediation (within the meaning of 26 U.S.C. §
16 162(f)(2)(A)) for the Alleged Harms. The Total Remediation Amount paid pursuant to the
17 Settlement is no greater than the amount, in the aggregate, of the Alleged Harms allegedly
18 suffered by the Participating Tribes, and the portion of the Total Remediation Amount received
19 by each Participating Tribe is no greater than the amount of the Alleged Harms allegedly suffered
20 by such Participating Tribe;

21 e. The Total Remediation Amount is being paid as compensatory
22 remediation (within the meaning of 26 U.S.C. § 162(f)(2)(A)) in order to restore, in whole or in
23 part, the Participating Tribes and persons to the same position or condition that they would be in
24 had the Participating Tribes and person not suffered the Alleged Harms and constitutes
25 remediation for damage or harm (as compensation for alleged damage or harm resulting from
26 bodily injury) allegedly caused by McKinsey; and

27 f. For the avoidance of doubt: (a) no portion of the Total Remediation
28 Amount represents reimbursement to any Participating Tribe, or other person or attorney or

1 entity, for the costs of any investigation or litigation, including without limitation attorneys' fees,
2 (b) the entire Total Remediation Amount is properly characterized as described in Section
3 V.D.1.e, and (c) none of the amounts paid by McKinsey under Section III constitutes
4 disgorgement or is paid for or in place of any fine, penalty, punitive damages, or other punitive
5 assessments.

6 **VI. Participation by Tribes**

7 A. *Presentation of Aggregated Settlement Offer, Informed Consent and Compliance*
8 *with Ethical Rules.* Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee Tribal
9 Representative believe the gross settlement amount to be reasonable and recommend moving
10 forward to present this Agreement and informed consent documentation to all Litigating Tribes
11 identified on **Exhibit A-1** and all Non-Litigating Tribes identified on **Exhibit A-2**, and if
12 applicable, to their counsel. McKinsey, the Released Entities, Plaintiffs' Lead Counsel and
13 Plaintiffs' Steering Committee Tribal Representative recognize the ultimate decision to settle
14 rests with each Tribe. Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee Tribal
15 Representative will work with all counsel to present the proposed aggregate settlement and
16 allocation procedures to all Tribes and will use best efforts to secure 100% participation.

17 B. *Notice to Tribes.* Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee
18 Tribal Representative shall provide notice of this settlement to each Non-Litigating Tribe, and to
19 counsel of record to each Litigating Tribe, and shall assist any Tribe in submitting its
20 participation agreement.

21 C. *Tribal Participation Form.* Attached hereto as **Exhibit E** is the Tribal
22 Participation Form. A Tribe's executed Participation Form is evidence of its status as a Party to
23 this Agreement, and the executed Participation Forms and their terms are incorporated herein by
24 reference.

25 D. *Dismissal of Claims.* Each Participating Tribe, either directly or through its
26 counsel, shall provide a dismissal with prejudice of all Released Claims by that Tribe against
27 Released Entities. Dismissal of a Litigating Tribe's complaint against Released Entities shall be
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1 filed only upon the occurrence of the Effective Date. The Parties will coordinate a streamlined
2 dismissal process with the MDL Court that will allow for a bulk filing of the agreed dismissal.

3 E. *Eligible Entities.* **Exhibits A-1** and **A-2** together set forth all entities eligible to
4 participate in this Agreement (“*Eligible Entities*”):

5 1. Each entity listed on **Exhibit A-1** is either (1) a federally recognized tribe
6 that the U.S. Secretary of the Interior acknowledges as an Indian Tribe, as provided in the
7 Federally Recognized Tribe List Act of 1994, 25 U.S.C. § 5130, and that has filed an opioid case
8 against McKinsey in MDL No. 2996 or in a case pending in State court, or (2) a “tribal
9 organization,” as defined in 25 U.S.C. § 5304(l), or an “inter-tribal consortium,” as defined in 25
10 U.S.C. § 5381(a)(5), that provides health care pursuant to contracts/compacts with the Indian
11 Health Service, and that has filed an opioid case against McKinsey in MDL No. 2996 or in a case
12 pending in State court. **Exhibit A-1** includes the filing docket number and counsel of record for
13 the listed entity. Each entity listed on **Exhibit A-1** is entitled to participate in the settlement.

14 2. **Exhibit A-2** includes entities that are federally recognized tribes that the
15 U.S. Secretary of the Interior acknowledges as an Indian Tribe, as provided in the Federally
16 Recognized Tribe List Act of 1994, 25 U.S.C. § 5130, and that have not filed an opioid case
17 against McKinsey in MDL No. 2996 or in a case pending in State court. **Exhibit A-2** also
18 includes Alaska Native “tribal organizations,” as defined in 25 U.S.C. § 5304(l) and “inter-tribal
19 consortia,” as defined in 25 U.S.C. § 5381(a)(5), that provide health care pursuant to
20 contracts/compacts with the Indian Health Service, and that have not filed an opioid case against
21 McKinsey in MDL No. 2996 or in a case pending in State court. Each entity listed on **Exhibit A-**
22 **2** is entitled to participate in the settlement.

23 F. *Calculating Tribal Allocation Percentages for Tribal Health Organizations and*
24 *Inter-Tribal Consortia:* The Tribal Allocation Order Numbers One and Two shall govern, and are
25 attached to this Agreement as **Exhibits F-1 and F-2**.

26 **VII. Defendants to be Released**

27 The following are to be Released Entities and shall be released and claims against them to
28 be dismissed with prejudice upon the Effective Date: McKinsey (“*McKinsey*” as defined in

1 Section I.10 of the Defined Terms) and all of its past or present owners, parents, subsidiaries,
2 divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as
3 well as all of its predecessors, successors, directors, officers, shareholders, employees, servants,
4 representatives, principals, agents, advisors, consultants, partners, contractors, attorneys, insurers,
5 reinsurers, and subrogees, and any other entity bearing the McKinsey name which any Tribe may
6 claim is responsible for the Covered Conduct.

7 **VIII. Plaintiffs' Attorneys' Fees and Costs**

8 The procedures to allocate and disburse attorneys' fees, including the Common Benefit
9 Attorney Fee Fund, to Litigating Tribes' counsel shall be the subject of a separate document to
10 which McKinsey and the Released Entities shall not be parties, but which shall be consistent with
11 Section III.A.3 of this Agreement. Any costs incurred in allocating and disbursing the attorneys'
12 fees, including the Common Benefit Attorney Fee Fund, shall be borne by the Attorney Fee Fund.
13

14 A. An attorney representing the Participating Tribes may not receive any payment
15 from the Common Benefit Attorney Fee Fund unless such attorney presents this settlement to
16 each tribal opioid client in good faith and uses best efforts to secure participation as set forth in
17 Section V.A above.

18 **IX. Dispute Resolution**

19 A. Any disputes arising out of this Agreement shall be heard before the Honorable
20 Charles Breyer, the judge appointed to oversee MDL 2996, or the Chief Judge of the U.S.
21 District Court for the Northern District of California, in that order.

22 **X. Miscellaneous**

23 A. *No Admission.* McKinsey does not admit liability or wrongdoing. This
24 Agreement shall not be considered, construed, or represented to be (1) an admission, concession,
25 or evidence of liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise
26 available to McKinsey.

27 B. *Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no
28 portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity

1 that is not a Participating Tribe or Released Entity. No Participating Tribe may assign or
2 otherwise convey any right to enforce any provision of this Agreement and no entity except the
3 Plaintiffs' Lead Counsel shall have the right to enforce any provision of this Agreement on behalf
4 of all Participating Tribes. Nothing in this Agreement extends to the Plaintiffs' Lead Counsel,
5 Plaintiffs' Steering Committee Tribal Representative, or Participating Tribes the authority to
6 enforce injunctive terms provided in state-court consent judgments implementing McKinsey's
7 national settlement with state and local governments, which shall be enforceable only as provided
8 therein.

9 C. *Construction.* None of the Parties and no Tribe shall be considered to be the
10 drafter of this Agreement or of any of its provisions for the purpose of any statute, case law, or
11 rule of interpretation or construction that would or might cause any provision to be construed
12 against the drafter of this Agreement. The headings of the provisions of this Agreement are not
13 binding and are for reference only and do not limit, expand, or otherwise affect the contents or
14 meaning of this Agreement.

15 D. *Cooperation.* Each Party agrees to use its best efforts and to cooperate with the
16 other Parties to cause this Agreement to become effective, to obtain all necessary approvals,
17 consents and authorizations, if any, and to execute all documents and to take such other action as
18 may be appropriate in connection herewith. Consistent with the foregoing, each Party agrees that
19 it will not directly or indirectly assist or encourage any challenge to this Agreement by any other
20 person, and will support the integrity and enforcement of the terms of this Agreement.

21 E. *Entire Agreement.* This Agreement, its Exhibits and any other attachments,
22 embodies the entire agreement and understanding between and among the Parties relating to the
23 subject matter hereof and supersedes (1) all prior agreements and understandings relating to such
24 subject matter, whether written or oral and (2) all purportedly contemporaneous oral agreements
25 and understandings relating to such subject matter.

26 F. *Execution.* This Agreement may be executed in counterparts and by different
27 signatories on separate counterparts, each of which shall be deemed an original, but all of which
28 shall together be one and the same Agreement. One or more counterparts of this Agreement may

1 be delivered by facsimile or electronic transmission with the intent that it or they shall constitute
2 an original counterpart hereof. One or more counterparts of this Agreement may be signed by
3 electronic signature.

4 G. *Good Faith and Voluntary Entry.* Each Party warrants and represents that it
5 negotiated the terms of this Agreement in good faith. Each of the Parties and signatories to this
6 Agreement warrants and represents that it freely and voluntarily entered into this Agreement
7 without any degree of duress or compulsion. The Parties state that no promise of any kind or
8 nature whatsoever (other than the written terms of this Agreement) was made to them to induce
9 them to enter into this Agreement.

10 H. *No Prevailing Party.* The Parties each agree that they are not the prevailing party
11 in this action, for purposes of any claim for fees, costs, or expenses as prevailing parties arising
12 under common law or under the terms of any statute, because the Parties have reached a good
13 faith settlement. The Parties each further waive any right to challenge or contest the validity of
14 this Agreement on any ground, including, without limitation, that any term is unconstitutional or
15 is preempted by, or in conflict with, any current or future law.

16 I. *Non-Admissibility.* The settlement negotiations resulting in this Agreement have
17 been undertaken by the Parties in good faith and for settlement purposes only, and no evidence of
18 negotiations or discussions underlying this Agreement shall be offered or received in evidence in
19 any action or proceeding for any purpose. This Agreement shall not be offered or received in
20 evidence in any action or proceeding for any purpose other than in an action or proceeding arising
21 under or relating to this Agreement, except that Released Entities may file or use this Agreement
22 in any action (1) involving a determination regarding insurance coverage; (2) involving a
23 determination of the taxable income or tax liability of any Released Entities; (3) to support a
24 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-
25 faith settlement, judgment bar or reduction or on any other theory of claim preclusion or issue
26 preclusion or similar defense or counterclaim; (4) to support a claim for contribution and/or
27 indemnification; or (5) to support any other argument or defense by a Released Entity that the
28

1 Remediation Payments provide a measure of compensation for asserted harms or otherwise
2 satisfy the relief sought.

3 J. *Notices.* All notices or other communications under this Agreement shall be in
4 writing (including but not limited to electronic communications) and shall be given to the
5 recipients indicated below:

6 For Plaintiffs' Lead Counsel:

7 Elizabeth J. Cabraser
8 ecabraser@lchb.com
9 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
10 275 Battery Street, 29th Floor
11 San Francisco, CA 94111-3339
12 Telephone: (415) 956-1000

13 For Plaintiffs' Steering Committee Tribal Representative:

14 Lloyd Miller
15 lloyd@sonosky.net
16 SONOSKY, CHAMBERS, SACHSE, MILLER & MONKMAN, LLP
17 510 L Street, Suite 310
18 Anchorage, AK 99501
19 Telephone: (907) 258-6377

20 For McKinsey:

21 James L. Bernard
22 jbernard@stroock.com
23 STROOCK & STROOCK & LAVAN LLP
24 180 Maiden Lane
25 New York, NY 10038-4982
26 Telephone: (212) 806-5684

27 Plaintiffs' Lead Counsel, Plaintiffs' Steering Committee Tribal Representative, and
28 McKinsey may change or add the contact information of the persons designated to receive notice
on its behalf by notice given (effective upon the giving of such notice) as provided in this
subsection.

K. *No Waiver.* The waiver of any rights conferred hereunder shall be effective only if
made by written instrument executed by the waiving Party or Parties. The waiver by any Party of

1 any breach of this Agreement shall not be deemed to be or construed as a waiver of any other
2 breach, whether prior, subsequent, or contemporaneous, nor shall such waiver be deemed to be or
3 construed as a waiver by any other Party.

4 L. *Preservation of Privilege.* Nothing contained in this Agreement, and no act
5 required to be performed pursuant to this Agreement, is intended to constitute, cause, or effect
6 any waiver (in whole or in part) of any attorney-client privilege, work product protection, or
7 common interest/joint defense privilege, and each Party agrees that it shall not make or cause to
8 be made in any forum any assertion to the contrary.

9 M. *Successors.* This Agreement shall be binding upon, and inure to the benefit of,
10 McKinsey and its respective successors and assigns. McKinsey shall not sell the majority of its
11 voting stock or substantially all its assets without obtaining the acquiror's agreement that it will
12 constitute a successor with respect to McKinsey's obligations under this Agreement.

13 N. *Modification, Amendment, Alteration.* After the Effective Date, any modification,
14 amendment, or alteration of this Agreement by the Parties shall be binding only if evidenced in
15 writing signed by McKinsey along with the signatures of the Tribal Leadership Committee.

16 O. *Termination.*

17 1. Unless otherwise agreed, this Agreement and all of its terms shall be
18 canceled and terminated, and the Agreement shall become null and void and of no effect, if
19 McKinsey provides written notice to Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee
20 Tribal Representative that McKinsey will not proceed with the Agreement, as provided in Section
21 IV.

22 2. If this Agreement is terminated, then:

23 Any applicable statute of limitation or any similar time requirement
24 (excluding any statute of repose) shall be tolled from the date of this
25 Agreement until the date of such termination

26 P. *Governing Law.* Except (1) as otherwise provided in the Agreement or (2) as
27 necessary, in the sole judgment of the Court deciding a matter presented to it, to promote
28 uniformity of interpretation for matters, this Agreement shall be governed by and interpreted in

1 accordance with the respective laws of the State of California without regard to the conflict of law
2 rules of such State. Notwithstanding any other provision in this subsection on governing law, the
3 United States District Court for the Northern District of California shall retain jurisdiction to
4 enforce this Agreement. Notwithstanding any other provision in this subsection on governing
5 law, any disputes relating to the McKinsey Tribal Settlement Trust shall be governed by and
6 interpreted in accordance with the law of the State where the escrow agent has its primary place
7 of business.

8 Q. *Severability.* In the event any one or more immaterial provisions of this
9 Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such
10 invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

11
12
13 For Plaintiffs' Lead Counsel

14 By: _____ DocuSigned by:
15 Elizabeth Cabraser Elizabeth Cabraser
16 Lief Cabraser Heimann & Bernstein, LLP CA2620E1A979449...

17 For Plaintiffs' Steering Committee Tribal Representative:

18 By: _____ DocuSigned by:
19 Lloyd B. Miller 785D602BED844CF
20 Sonosky, Chambers, Sachse, Miller & Monkman, LLP

21 For McKinsey:

22 By: _____
23 [Signature]

24 _____
25 [Print Name]

26 _____
27 [Title] Associate General Counsel
28

EXHIBIT A-1

Litigating Tribes

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Akiak Native Community	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Alaska Native Tribal Health Consortium	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
Aleutian Pribilof Islands Association, Inc.	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
Apache Tribe of Oklahoma	Fulmer Sill; Browne Pelican; Morgan & Morgan Complex Litigation Group	3:22-cv-06700
Arctic Slope Native Association	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Aroostock Band of Micmacs	Baron & Budd; Levin Papantonio; Farrell & Fuller; Hill Peterson; Powell & Majestro	3:23-cv-01183
Asa'carsarmiut Tribe	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Bad River Band of Lake Superior Chippewa	Frazer PLC	3:22-cv-01248
Battle Mountain Band of the Te- Moak Tribe of Western Shoshone Indians	Frazer PLC	3:22-cv-01282
Big Sandy Rancheria of Western Mono Indians	Ceibal Legal	3:22-cv-07606
Big Valley Band of Pomo Indians of the Big Valley Rancheria	Ceibal Legal	3:22-cv-07606
Blackfeet Tribe of the Blackfeet Indian Reservation	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro; Skikos Crawford Skikos & Joseph	3:22-cv-04555
Bristol Bay Area Health Corporation	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
Cahto Indian Tribe of the Laytonville Rancheria	Ceibal Legal	3:22-cv-07606
Cher-Ae Heights Indian Community of the Trinidad Rancheria	Ceibal Legal	3:22-cv-07606

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Cherokee Nation	Sullivan & Sullivan (Oklahoma); Cherokee Nation AG; Fields PLLC	3:21-cv-08061
Cheyenne & Arapaho Tribes	Frazer PLC	3:22-cv-01258
Chickasaw Nation	Fields Han Cunniff; Whitten Burrage	3:22-cv-07122
Chicken Ranch Rancheria of Mewuk Indians	Ceibal Legal	3:22-cv-07606
Chitimacha Tribe of Louisiana	Frazer PLC	3:22-cv-01276
Choctaw Nation of Oklahoma	Fields Han Cunniff; Whitten Burrage	3:22-cv-07117
Chugachmiut, Inc.	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Citizen Potawatomi Nation	Fulmer Sill; Browne Pelican	3:21-cv-04383
Confederated Salish And Kootenai Tribes of the Flathead Reservation	Gilbert LLP	3:21-cv-08633
Confederated Tribes of the Grand Ronde Community of Oregon	Gilbert LLP; Assistant Tribal Attorney Confederated Tribes of the Grand Ronde Community of Oregon; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC	3:21-cv-08865
Consolidated Tribal Health Project, Inc.	Ceibal Legal	3:22-cv-07606
Copper River Native Association	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Coyote Valley Band of Pomo Indians	Ceibal Legal	3:22-cv-07606
Eastern Aleutian Tribes	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Eastern Band of Cherokee Indians	Scott Taylor; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-05170
Elko Band of the Te-Moak Tribe of Western Shoshone Indians	Frazer PLC	3:22-cv-01282
Ely Shoshone Tribe of Nevada	Frazer PLC	3:22-cv-01282
Ewiaapaayp Band of Kumeyaay Indians	Ceibal Legal	3:22-cv-07606

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Feather River Tribal Health, Inc.	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Berkey Williams LLP	3:21-cv-04481
Fond du Lac Band of Lake Superior Chippewa	Robins Kaplan LLP	3:21-cv-06262
Fort Belknap Indian Community of the Fort Belknap Indian Reservation of Montana	Gilbert LLP	3:21-cv-08633
Gila River Indian Community	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC; General Counsel Gila River Indian Community	3:21-cv-08860
Grand Traverse Band of Ottawa and Chippewa Indians	Gilbert LLP; Sonosky Chambers Sachse Endreson Perry, LLP; Sonosky Chambers Sachse Miller Monkman, LLP	3:21-cv-08631
Guidiville Rancheria of California	Ceibal Legal	3:22-cv-07606
Ho-Chunk Nation	Frazer PLC	3:22-cv-01278
Hoopla Valley Tribe	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP	3:21-cv-04482
Hopland Band of Pomo Indians	Ceibal Legal	3:22-cv-07606
Houlton Band of Maliseet Indians	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-04883
Indian Health Council, Inc.	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04961
Jamestown S'Klallam Tribe	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04965
Kenaitze Indian Tribe	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Kickapoo Traditional Tribe of Texas	Frazer PLC	3:22-cv-01280
Kodiak Area Native Association	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
Koi Nation of Northern California	Ceibal Legal	3:22-cv-07606
Lac Courte Oreilles Band of Lake Superior Chippewa	Frazer PLC	3:22-cv-02160
Lac Du Flamebau Band of Lake Superior Chippewa	Frazer PLC	3:22-cv-02167
Leech Lake Band of Ojibwe	Leech Lake Band of Ojibwe	3:22-cv-04027
Lower Brule Sioux Tribe	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro; Mauro Archer and Associates	3:22-cv-04702

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Lytton Band of Pomo Indians	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro; Mauro Archer and Associates; Skikos Crawford Skikos & Joseph	3:22-cv-04571
Mississippi Band of Choctaw Indians	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC	3:21-cv-08867
Mohegan Tribe of Indians of Connecticut	Frazer PLC	3:22-cv-00987
Muscogee (Creek) Nation	Gilbert; Fields PLLC; First Assistant Attorney (Muscogee Creek Nation)	3:21-cv-08637
Native Village of Port Heiden	Lief Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Navajo Nation	Gilbert LLP; Navajo Nation AG; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC	3:21-cv-04973
Norton Sound Health Corporation	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
Osage Nation of Oklahoma	Fulmer Sill; Browne Pelican PLLC; Morgan & Morgan Complex Litigation Group	3:22-cv-03994
Paiute-Shoshone Tribe of the Fallon Reservation And Colony	Frazer PLC	3:22-cv-01282
Pala Band of Mission Indians	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04961
Pascua Yaqui Tribe	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC; General Counsel Gila River Indian Community	3:21-cv-08860
Pinoleville Pomo Nation	Ceibal Legal	3:22-cv-07606
Ponca Tribe of Indians of Oklahoma, The	Fulmer Sill; Browne Pelican; Morgan & Morgan Complex Litigation Group	3:22-cv-06704
Port Gamble S'Klallam Tribe	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04965
Potter Valley Tribe	Ceibal Legal	3:22-cv-07606
Pueblo of Pojoaque	Frazer PLC	3:22-cv-01286
Puyallup Tribe of Indians also known as Puyallup Tribe of the Puyallup Reservation	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC	3:21-cv-08870
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation	Frazer PLC	3:22-cv-01282

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Quapaw Tribe of Oklahoma	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-04556
Red Cliff Band of Lake Superior Chippewa Indians	Frazer PLC	3:22-cv-04670
Red Lake Band of Chippewa Tribe Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria	Mauro Archer and Associates, LLC; Baron & Budd; Hill, Peterson, Carper, Bee & Deitzler; Farrell & Fuller; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Powell & Majestro Ceibal Legal	3:22-cv-00445 3:22-cv-07606
Reno-Sparks Indian Colony	Frazer PLC	3:22-cv-01282
Resighini Rancheria	Ceibal Legal	3:22-cv-07606
Riverside-San Bernardino County Indian Health, Inc.	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Berkey Williams LLP	3:21-cv-04481
Robinson Rancheria	Ceibal Legal	3:22-cv-07606
Round Valley Indian Health Center	Ceibal Legal	3:22-cv-07606
Round Valley Indian Tribe	Ceibal Legal	3:22-cv-07606
Sac and Fox Nation of Oklahoma	Fulmer Sill; Browne Pelican; Morgan & Morgan Complex Litigation Group	3:22-cv-06702
San Carlos Apache Tribe	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC; General Counsel Gila River Indian Community	3:21-cv-08860
Sault Ste. Marie Tribe of Chippewa Indians	Gilbert LLP; Sonosky Chambers Sachse Endreson Perry, LLP; Sonosky Chambers Sachse Miller Monkman, LLP	3:21-cv-08631
Scotts Valley Band of Pomo Indians	Ceibal Legal	3:22-cv-07606
Seneca Nation of Indians	Baron & Budd, P.C.; Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey, P.A.; Powell & Majestro P.L.L.C.; Hill, Peterson, Carper, Bee & Deitzler, PLLC; Farrell & Fuller LLC	3:21-cv-09109
Shinnecock Indian Nation	Frazer PLC	3:22-cv-01648
Shoshone-Bannock Tribes	Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-04887
South Fork Band of the Te-Moak Tribe of Western Shoshone Indians	Frazer PLC	3:22-cv-01282

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Southcentral Foundation	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04966
Southeast Alaska Regional Health Consortium	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04968
St. Croix Chippenwa Indians of Wisconsin	Frazer PLC	3:22-cv-05640
Suquamish Tribe	Hobbs, Straus, Dean & Walker, LLP	3:21-cv-04965
Swinomish Indian Tribal Community (the “Swinomish Tribe”)	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Tousley Brain Stephens PLLC	3:21-cv-04489
Tanana Chiefs Conference	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483
Tule River Indian Tribe of California	Levin, Papantonio, Rafferty, Proctor, Buchanan, O’Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro; Mauro Archer and Associates; Skikos Crawford Skikos & Joseph	3:22-cv-04571
United Keetoowah Band of Cherokee Indians	Levin, Papantonio, Rafferty, Proctor, Buchanan, O’Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-04556
Walker River Paiute Tribe of the Walker River Reservation	Frazer PLC	3:22-cv-01282
Wampanoag Tribe of Gay Head (Aquinnah)	Frazer PLC	3:22-cv-01291
White Earth Tribe	Mauro Archer and Associates, LLC; Baron & Budd; Hill, Peterson, Carper, Bee & Deitzler; Farrell & Fuller; Levin, Papantonio, Rafferty, Proctor, Buchanan, O’Brien, Barr, Mougey; Powell & Majestro	3:22-cv-00445
White Mountain Apache Tribe	Fields Han Cunniff; Bowers Law Office; Seneca Jacobs	3:23-cv-00373
Wyandotte Nation	Levin, Papantonio, Rafferty, Proctor, Buchanan, O’Brien, Barr, Mougey; Baron & Budd; Farrell & Fuller; Hill, Peterson, Carper, Bee & Deitzler; Powell & Majestro	3:22-cv-04556
Yukon-Kuskokwim Health Corporation	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP; Sonosky Chambers Sachse Miller & Monkman, LLP	3:21-cv-04483

Federally Recognized Tribe/ Entity Name	Law Firm	Case No. (if applicable)
Yurok Tribe, The	Lieff Cabraser Heimann & Bernstein, LLP; Zwerling, Schachter & Zwerling, LLP	3:21-cv-04490
Zuni Tribe of the Zuni Reservation	Gilbert LLP; Sonosky Chambers Sachse Endreson & Perry, LLP; Fields PLLC	3:21-cv-08859

EXHIBIT A-2

Non-Litigating Tribes

Federally Recognized Tribe/Entity Name	Law Firm
Absentee-Shawnee Tribe of Indians of Oklahoma	
Agdaagux Tribe of King Cove	
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California	
Ak-Chin Indian Community	
Akiachak Native Community	
Alabama-Coushatta Tribe of Texas	
Alabama-Quassarte Tribal Town	
Alatna Village	
Algaaciq Native Village (St. Mary's)	
Allakaket Village	
Alturas Indian Rancheria, California	
Alutiiq Tribe of Old Harbor	
Angoon Community Association	
Anvik Village	
Arctic Village	
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana	
Augustine Band of Cahuilla Indians, California	
Bay Mills Indian Community, Michigan	
Bear River Band of the Rohnerville Rancheria, California	
Beaver Village	
Berry Creek Rancheria of Maidu Indians of California	
Big Lagoon Rancheria, California	
Big Pine Paiute Tribe of the Owens Valley	
Birch Creek Tribe	
Bishop Paiute Tribe	
Blue Lake Rancheria, California	
Bridgeport Indian Colony	
Buena Vista Rancheria of Me-Wuk Indians of California	
Burns Paiute Tribe	

Federally Recognized Tribe/Entity Name	Law Firm
Cabazon Band of Cahuilla Indians (Previously listed as Cabazon Band of Mission Indians, California)	
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California	
Caddo Nation of Oklahoma	
Cahuilla Band of Indians	
California Valley Miwok Tribe, California	
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California	
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California)	
Catawba Indian Nation	
Cayuga Nation	
Cedarville Rancheria, California	
Central Council of the Tlingit & Haida Indian Tribes	
Chalkyitsik Village	
Cheesh-Na Tribe	
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California	
Chevak Native Village	
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota	
Chickahominy Indian Tribe	
Chickahominy Indian Tribe—Eastern Division	
Chickaloon Native Village	
Chignik Bay Tribal Council	
Chignik Lake Village	
Chilkat Indian Village (Klukwan)	
Chilkoot Indian Association (Haines)	
Chinik Eskimo Community (Golovin)	
Chippewa Cree Indians of the Rocky Boy's Reservation, Montana	
Chuloonawick Native Village	
Circle Native Community	
Cloverdale Rancheria of Pomo Indians of California	
Cocopah Tribe of Arizona	
Coeur D'Alene Tribe	

Federally Recognized Tribe/Entity Name	Law Firm
Cold Springs Rancheria of Mono Indians of California	
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California	
Comanche Nation, Oklahoma	
Confederated Tribes and Bands of the Yakama Nation	
Confederated Tribes of Siletz Indians of Oregon	
Confederated Tribes of the Chehalis Reservation	
Confederated Tribes of the Colville Reservation	
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians	
Confederated Tribes of the Goshute Reservation, Nevada and Utah	
Confederated Tribes of the Umatilla Indian Reservation	
Confederated Tribes of the Warm Springs Reservation of Oregon	
Coquille Indian Tribe	
Coushatta Tribe of Louisiana	
Cow Creek Band of Umpqua Tribe of Indians	
Cowlitz Indian Tribe	
Craig Tribal Association	
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota	
Crow Tribe of Montana	
Curyung Tribal Council	
Delaware Nation, Oklahoma	
Delaware Tribe of Indians	
Douglas Indian Association	
Dry Creek Rancheria Band of Pomo Indians, California	
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada	
Eastern Shawnee Tribe of Oklahoma	
Eastern Shoshone Tribe of the Wind River Reservation, Wyoming	
Egegik Village	
Eklutna Native Village	
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California	
Elk Valley Rancheria, California	
Emmonak Village	
Enterprise Rancheria of Maidu Indians of California	
Evansville Village (aka Bettles Field)	

Federally Recognized Tribe/Entity Name	Law Firm
Federated Indians of Graton Rancheria, California	
Flandreau Santee Sioux Tribe of South Dakota	
Forest County Potawatomi Community, Wisconsin	
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California	
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California	
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon	
Fort McDowell Yavapai Nation, Arizona	
Fort Mojave Indian Tribe of Arizona, California & Nevada	
Fort Sill Apache Tribe of Oklahoma	
Galena Village (aka Louden Village)	
Greenville Rancheria	
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California	
Gulkana Village Council	
Habematolel Pomo of Upper Lake, California	
Hannahville Indian Community, Michigan	
Havasupai Tribe of the Havasupai Reservation, Arizona	
Healy Lake Village	
Hoh Indian Tribe	
Holy Cross Tribe [previously listed as Holy Cross Village]	
Hoonah Indian Association	
Hopi Tribe of Arizona	
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona	
Hughes Village	
Huslia Village	
Hydaburg Cooperative Association	
Igiugig Village	
Iipay Nation of Santa Ysabel, California	
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California	
Inupiat Community of the Arctic Slope	
Ione Band of Miwok Indians of California	
Iowa Tribe of Kansas and Nebraska	

Federally Recognized Tribe/Entity Name	Law Firm
Iowa Tribe of Oklahoma	
Iqugmiut Traditional Council	
Ivanof Bay Tribe	
Jackson Band of Miwuk Indians	
Jamul Indian Village of California	
Jena Band of Choctaw Indians	
Jicarilla Apache Nation, New Mexico	
Kaguyak Village	
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona	
Kaktovik Village (aka Barter Island)	
Kalispel Indian Community of the Kalispel Reservation	
Karuk Tribe	
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California	
Kasigluk Traditional Elders Council	
Kaw Nation, Oklahoma	
Ketchikan Indian Community	
Keweenaw Bay Indian Community, Michigan	
Kialegee Tribal Town	
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas	
Kickapoo Tribe of Oklahoma	
King Island Native Community	
King Salmon Tribe	
Kiowa Indian Tribe of Oklahoma	The Bruehl Firm
Klamath Tribes	
Klawock Cooperative Association	
Kletsel Dehe Band of Wintun Nation of the Cortina Rancheria (Previously listed as Kletsel Dehe Band of Wintun Indians)	
Knik Tribe	
Koi Nation of Northern California	
Kokhanok Village	
Kootenai Tribe of Idaho	
Koyukuk Native Village	
La Jolla Band of Luiseno Indians, California	

Federally Recognized Tribe/Entity Name	Law Firm
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California	
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan	
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada	
Levelock Village	
Lime Village	
Little River Band of Ottawa Indians, Michigan	
Little Shell Tribe of Chippewa Indians of Montana	Robins Kaplan LLP
Little Traverse Bay Bands of Odawa Indians, Michigan	
Lone Pine Paiute-Shoshone Tribe	
Los Coyotes Band of Cahuilla and Cupeno Indians, California	
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada	
Lower Elwha Tribal Community	
Lower Sioux Indian Community in the State of Minnesota	
Lummi Tribe of the Lummi Reservation Lytton Rancheria of California	
Makah Indian Tribe of the Makah Indian Reservation	
Manchester Band of Pomo Indians of the Manchester Rancheria, California	
Manley Hot Springs Village	
Manokotak Village	
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California	
Mashantucket Pequot Indian Tribe	
Mashpee Wampanoag Tribe	
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan	
McGrath Native Village	
Mechoopda Indian Tribe of Chico Rancheria, California	
Menominee Indian Tribe of Wisconsin	
Mentasta Traditional Council	
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California	
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico	
Metlakatla Indian Community	
Mi'kmaq Nation (Previously listed as Aroostook Band of Micmacs)	

Federally Recognized Tribe/Entity Name	Law Firm
Miami Tribe of Oklahoma	
Miccosukee Tribe of Indians	
Middletown Rancheria of Pomo Indians of California	
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)	
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada	
Modoc Nation	
Monacan Indian Nation	
Mooretown Rancheria of Maidu Indians of California	
Morongo Band of Mission Indians, California	
Muckleshoot Indian Tribe	
Naknek Native Village	
Nansemond Indian Nation	
Narragansett Indian Tribe	
Native Village of Afognak	
Native Village of Akhiok	
Native Village of Akutan	
Native Village of Aleknagik	
Native Village of Ambler	
Native Village of Atka	
Native Village of Atqasuk	
Native Village of Barrow Inupiat Traditional Government	
Native Village of Belkofski	
Native Village of Brevig Mission	
Native Village of Buckland	
Native Village of Cantwell	
Native Village of Chenega (aka Chanega)	
Native Village of Chignik Lagoon	
Native Village of Chitina	
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)	
Native Village of Council	
Native Village of Deering	
Native Village of Diomedea (aka Inalik)	

Federally Recognized Tribe/Entity Name	Law Firm
Native Village of Eagle	
Native Village of Eek	
Native Village of Ekuk	
Native Village of Ekwo	
Native Village of Elim	
Native Village of Eyak (Cordova)	
Native Village of False Pass	
Native Village of Fort Yukon	
Native Village of Gakona	
Native Village of Gambell	
Native Village of Georgetown	
Native Village of Goodnews Bay	
Native Village of Hamilton	
Native Village of Hooper Bay	
Native Village of Kanatak	
Native Village of Karluk	
Native Village of Kiana	
Native Village of Kipnuk	
Native Village of Kivalina	
Native Village of Kluti Kaah (aka Copper Center)	
Native Village of Kobuk	
Native Village of Kongiganak	
Native Village of Kotzebue	
Native Village of Koyuk	
Native Village of Kwigillingok	
Native Village of Kwinhagak (aka Quinhagak)	
Native Village of Larsen Bay	
Native Village of Marshall (aka Fortuna Ledge)	
Native Village of Mary's Igloo	
Native Village of Mekoryuk	
Native Village of Minto	
Native Village of Nanwalek (aka English Bay)	
Native Village of Napaimute	
Native Village of Napakiak	

Federally Recognized Tribe/Entity Name	Law Firm
Native Village of Napaskiak	
Native Village of Nelson Lagoon	
Native Village of Nightmute	
Native Village of Nikolski	
Native Village of Noatak	
Native Village of Nuiqsut (aka Nooiksut)	
Native Village of Nunam Iqua	
Native Village of Nunapitchuk	
Native Village of Ouzinkie	
Native Village of Paimiut	
Native Village of Perryville	
Native Village of Pilot Point	
Native Village of Point Hope	
Native Village of Point Lay	
Native Village of Port Graham	
Native Village of Port Lions	
Native Village of Ruby	
Native Village of Saint Michael	
Native Village of Savoonga	
Native Village of Scammon Bay	
Native Village of Selawik	
Native Village of Shaktoolik	
Native Village of Shishmaref	
Native Village of Shungnak	
Native Village of Stevens	
Native Village of Tanacross	
Native Village of Tanana	
Native Village of Tatitlek	
Native Village of Tazlina	
Native Village of Teller	
Native Village of Tetlin	
Native Village of Tuntutuliak	
Native Village of Tununak	
Native Village of Tyonek	

Federally Recognized Tribe/Entity Name	Law Firm
Native Village of Unalakleet	
Native Village of Unga	
Native Village of Wales	
Native Village of White Mountain	
Nenana Native Association	
New Koliganek Village Council	
New Stuyahok Village	
Newhalen Village	
Newtok Village	
Nez Perce Tribe	
Nikolai Village	
Ninilchik Village	
Nisqually Indian Tribe	
Nome Eskimo Community	
Nondalton Village	
Nooksack Indian Tribe	
Noorvik Native Community	
Northern Arapaho Tribe of the Wind River Reservation, Wyoming	
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana	
Northfork Rancheria of Mono Indians of California	
Northway Village	
Northwestern Band of the Shoshone Nation	
Nottawaseppi Huron Band of the Potawatomi, Michigan	
Nulato Village	
Nunakauyarmiut Tribe	
Oglala Sioux Tribe	
Ohkay Owingeh, New Mexico	
Omaha Tribe of Nebraska	
Oneida Indian Nation	
Onondaga Nation	
Organized Village of Grayling (aka Holikachuk)	
Organized Village of Kake	
Organized Village of Kasaan	

Federally Recognized Tribe/Entity Name	Law Firm
Organized Village of Kwethluk	
Organized Village of Saxman	
Orutsararmiut Traditional Native Council	
Oscarville Traditional Village	
Otoe-Missouria Tribe of Indians, Oklahoma	
Ottawa Tribe of Oklahoma	
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)	
Pamunkey Indian Tribe	
Pascua Yaqui Tribe of Arizona	
Paskenta Band of Nomlaki Indians of California	
Passamaquoddy Tribe	
Pauloff Harbor Village	
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California	
Pawnee Nation of Oklahoma	
Pechanga Band of Indians (Previously listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California)	
Pedro Bay Village	
Penobscot Nation	
Peoria Tribe of Indians of Oklahoma	
Petersburg Indian Association	
Picayune Rancheria of Chukchansi Indians of California	
Pilot Station Traditional Village	
Pit River Tribe, California (Includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)	
Pitka's Point Traditional Council	
Platinum Traditional Village	
Poarch Band of Creek Indians	
Pokagon Band of Potawatomi Indians, Michigan and Indiana	
Ponca Tribe of Nebraska	
Portage Creek Village (aka Ohgsenakale)	
Prairie Band Potawatomi Nation	
Prairie Island Indian Community in the State of Minnesota	

Federally Recognized Tribe/Entity Name	Law Firm
Pueblo of Acoma, New Mexico	
Pueblo of Cochiti, New Mexico	
Pueblo of Isleta, New Mexico	
Pueblo of Jemez, New Mexico	
Pueblo of Laguna, New Mexico	
Pueblo of Nambe, New Mexico	
Pueblo of Picuris, New Mexico	
Pueblo of San Felipe, New Mexico	
Pueblo of San Ildefonso, New Mexico	
Pueblo of Sandia, New Mexico	
Pueblo of Santa Ana, New Mexico	
Pueblo of Santa Clara, New Mexico	
Pueblo of Taos, New Mexico	
Pueblo of Tesuque, New Mexico	
Pueblo of Zia, New Mexico	
Qagan Tayagungin Tribe of Sand Point	
Qawalangin Tribe of Unalaska	
Quartz Valley Indian Community of the Quartz Valley Reservation of California	
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona	
Quileute Tribe of the Quileute Reservation	
Quinault Indian Nation	
Ramona Band of Cahuilla, California	
Rampart Village	
Rappahannock Tribe, Inc.	
Redding Rancheria, California	
Rincon Band of Luiseno Indians (Previously listed as Rincon Band of Luiseno Mission Indians of Rincon Reservation, California)	
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota	
Sac & Fox Nation of Missouri in Kansas and Nebraska	
Sac & Fox Tribe of the Mississippi in Iowa	
Saginaw Chippewa Indian Tribe of Michigan	
Saint George Island	
Saint Paul Island	

Federally Recognized Tribe/Entity Name	Law Firm
Saint Regis Mohawk Tribe	
Salamatof Tribe	
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona	
Samish Indian Nation	
San Carlos Apache Tribe of the San Carlos Reservation, Arizona	
San Juan Southern Paiute Tribe of Arizona	
San Pasqual Band of Diegueno Mission Indians of California	
Santa Rosa Band of Cahuilla Indians, California	Robins Kaplan LLP
Santa Rosa Indian Community of the Santa Rosa Rancheria, California	
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California	
Santee Sioux Nation, Nebraska	
Santo Domingo Pueblo	
Sauk-Suiattle Indian Tribe	
Seldovia Village Tribe	
Seminole Tribe of Florida	
Seneca-Cayuga Nation	
Shageluk Native Village	
Shakopee Mdewakanton Sioux Community of Minnesota	
Shawnee Tribe	
Sherwood Valley Rancheria of Pomo Indians of California	
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California	
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation	
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada	
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota	
Sitka Tribe of Alaska	
Skagway Village	
Skokomish Indian Tribe	
Skull Valley Band of Goshute Indians of Utah	
Snoqualmie Indian Tribe	
Soboba Band of Luiseno Indians, California	
Sokaogon Chippewa Community, Wisconsin	

Federally Recognized Tribe/Entity Name	Law Firm
South Naknek Village	
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado	
Spirit Lake Tribe, North Dakota	
Spokane Tribe of the Spokane Reservation	
Squaxin Island Tribe of the Squaxin Island Reservation	
St. Croix Chippewa Indians of Wisconsin	
Standing Rock Sioux Tribe of North & South Dakota	
Stebbins Community Association	
Stillaguamish Tribe of Indians of Washington	
Stockbridge Munsee Community, Wisconsin	
Summit Lake Paiute Tribe of Nevada	
Sun'aq Tribe of Kodiak	
Susanville Indian Rancheria, California	
Sycuan Band of the Kumeyaay Nation	
Table Mountain Rancheria	
Takotna Village	
Tangirnaq Native Village	
Tejon Indian Tribe	
Telida Village	
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band)	
The Muscogee (Creek) Nation	
The Osage Nation	
The Seminole Nation of Oklahoma	
Thlopthlocco Tribal Town	
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	
Timbisha Shoshone Tribe	
Tohono O'odham Nation of Arizona	
Tolowa Dee-ni' Nation	
Tonawanda Band of Seneca	
Tonkawa Tribe of Indians of Oklahoma	
Tonto Apache Tribe of Arizona	
Torres Martinez Desert Cahuilla Indians, California	
Traditional Village of Togiak	

Federally Recognized Tribe/Entity Name	Law Firm
Tulalip Tribes of Washington	
Tuluksak Native Community	
Tunica-Biloxi Indian Tribe	
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	
Turtle Mountain Band of Chippewa Indians of North Dakota	
Tuscarora Nation	
Twenty-Nine Palms Band of Mission Indians of California	
Twin Hills Village	
Ugashik Village	
Umkumiut Native Village	
United Auburn Indian Community of the Auburn Rancheria of California	
Upper Mattaponi Tribe	
Upper Sioux Community, Minnesota	
Upper Skagit Indian Tribe	
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah	
Ute Mountain Ute Tribe	
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California	
Verde Indian Reservation, Arizona	
Village of Alakanuk	
Village of Anaktuvuk Pass	
Village of Aniak	
Village of Atmautluak	
Village of Bill Moore's Slough	
Village of Chefornak	
Village of Clarks Point	
Village of Crooked Creek	
Village of Dot Lake	
Village of Iliamna	
Village of Kalskag	
Village of Kaltag	
Village of Kotlik	
Village of Lower Kalskag	

Federally Recognized Tribe/Entity Name	Law Firm
Village of Ohogamiut	
Village of Red Devil	
Village of Sleetmute	
Village of Solomon	
Village of Stony River	
Village of Venetie	
Village of Wainwright	
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)	
Wichita and Affiliated Tribes, Oklahoma	
Wilton Rancheria, California	
Winnebago Tribe of Nebraska	
Winnemucca Indian Colony of Nevada	
Wiyot Tribe, California	
Wrangell Cooperative Association	
Yakutat Tlingit Tribe	
Yankton Sioux Tribe of South Dakota	
Yavapai-Apache Nation of the Camp	
Yavapai-Prescott Indian Tribe	
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada	
Yocha Dehe Wintun Nation, California	
Yomba Shoshone Tribe of the Yomba Reservation, Nevada	
Ysleta del Sur Pueblo	
Yuhaaviatam of San Manuel Nation (Previously listed as San Manuel Band of Mission Indians, California)	
Yupiiit of Andreafski	

EXHIBIT B

Alleged Harms

The following expert reports that were filed in connection with the case captioned *In re National Prescription Opiate Litigation*, No. 1-17-md-02804 (N.D. Ohio):

1. Expert report of Professor David Cutler, dated March 25, 2019.
2. Expert report of Dr. Jeffrey B. Liebman, dated March 25, 2019.
3. Expert report of Professor Thomas McGuire regarding damages to Bellwethers, dated March 25, 2019.
4. Report of Professor Thomas McGuire regarding public nuisance, dated March 25, 2019.

EXHIBIT C

Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:¹

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (MAT) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (ASAM) continuum of care for OUD and any co-occurring SUD/MH conditions
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Treatment of trauma for individuals with OUD (e.g., violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (e.g., surviving

¹ As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Public Creditor Trust Distribution Procedures.

family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.

7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

8. Training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.

9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.

10. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.

13. Dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.

14. Development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.

2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.

3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.
4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. 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.
11. 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.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)**

Provide connections to care for people who have – or at risk of developing – OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.

12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.
14. Support assistance programs for health care providers with OUD.
15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL-JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 - a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
 - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
 - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;
 - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 - f. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.

3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.

6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

7. Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (NAS), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women – or women who could become pregnant – who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

1. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.

2. Training for obstetricians or other healthcare personnel that work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.

3. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; expand long-term treatment and services for medical monitoring of NAS babies and their families.

4. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.

5. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

6. Enhanced family supports and child care services for parents with OUD and any co-occurring SUD/MH conditions.

7. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

8. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including but not limited to parent skills training.

9. Support for Children’s Services – Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.

3. Continuing Medical Education (CME) on appropriate prescribing of opioids.

4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:

- a. Increase the number of prescribers using PDMPs;
- b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or
- c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.

6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.

7. Increase electronic prescribing to prevent diversion or forgery.

8. Educate Dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

9. Fund media campaigns to prevent opioid misuse.
10. Corrective advertising or affirmative public education campaigns based on evidence.
11. Public education relating to drug disposal.
12. Drug take-back disposal or destruction programs.
13. Fund community anti-drug coalitions that engage in drug prevention efforts.
14. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA).
15. Engage non-profits and faith-based communities as systems to support prevention.

16. Fund evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
17. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
18. Create of support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
19. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
20. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increase availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.

8. Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.

9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.

10. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Support mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.

12. Provide training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.

13. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.

2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.

3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.

2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (e.g., health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.

2. Research non-opioid treatment of chronic pain.

3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.

5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.

6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations including individuals entering the criminal justice system, including but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (ADAM) system.

8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.

9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

EXHIBIT D

Tribal Abatement Strategies

The following is a non-exhaustive, illustrative list of culturally appropriate activities, practices, teachings or ceremonies that may, in the judgment of the Tribes, be aimed at or supportive of remediation and abatement of the opioid crisis within a tribal community.

Each of the 574 federally recognized Tribes in the United States has its own cultures, histories and traditions. Each Tribe is best suited to determine the most effective abatement strategies for the specific community it serves. The following list provides select examples of tribal abatement strategies and is not intended to limit the remediation and abatement activities for which any Tribe or tribal organization may utilize its share of Abatement Funds.

I. Traditional Activities Associated with Cultural Identity and Healing

Tribal cultural activities can help address historical and intergenerational trauma and feelings of cultural loss that may be underlying root causes and/or contributing factors to addiction. These can include, for example:

- Utilization of traditional healers and spiritual and traditional approaches to healing;
- Sweat lodges, sacred pipe ceremonies, smudging and other ceremonies;
- Talking circles;
- Cultural activities such as basket weaving, pottery making, drum making, canoe building, etc., depending on the Tribe;
- Cultural and linguistic immersion programs.

These traditional activities may be combined with other treatment or included in integrated treatment models, as discussed below.

Example: Drum-Assisted Recovery Therapy for Native Americans (DARTNA) is supported by research. Drums are a sacred instrument in many American Indian and Alaska Native cultures and are often associated with ceremonies and healing. In addition to providing a sense of cultural connection, drumming may have physical and psychological effects that make it a promising focus for treatment.

Example: Some Tribes have utilized seasonal cultural immersion camps in lieu of or in combination with residential treatment for substance use disorder. Participants practice traditional lifeways, including hunting, fishing, living in traditional dwellings and cultural and/or spiritual practices during the course of treatment.

II. Culturally Competent Integrated Treatment Models

Example: The Swinomish Tribe designed and developed a unique treatment program called Didg^wálič that integrates evidence-based chemical dependency treatment with holistic, culturally competent care to successfully deal with the effects of opioid use disorder (OUD). Didg^wálič provides a full array of medical and social services, utilizing a model of care that

centers on and incorporates the Tribe's culture and values. The Tribal government and individual Tribal members provide cultural leadership and advice on the use of Native language and practices in the program.

Example: The Tulalip Tribe operates the Healing Lodge, a culturally sensitive transitional home facility for tribal members who are seeking to recover from addiction. In addition to a clean and sober living environment, the facility provides transportation to and from Chemical Dependency/ Mental Wellness groups and individual counseling sessions, sober support groups and cultural activities such as sweats, powwow and family nights.

The program also connects residents with educational activities such as life skills trainings, budgeting, post generational trauma and Red Road to Wellbriety, a recovery and wellness program similar in some ways to the 12 Steps of AA but designed especially for Native American and following the teachings of the Medicine Wheel.

III. Culturally Grounded Community Prevention

Culturally competent prevention programs, tailored to each tribal community, can play an important role in stopping and reversing the spread of the opioid epidemic.

Example: The Healing of the Canoe is a collaborative project between the Suquamish Tribe, the Port Gamble S'Klallam Tribe and the University of Washington Alcohol and Drug Abuse Institute (ADAI). It has led to the development and dissemination of the Culturally Grounded Life Skills for Youth curriculum, an evidence-based, strengths- based life skills curriculum for Native youth that uses elements of a Tribe's culture to help prevent substance abuse and connect its youth to their tribal community and culture. It teaches Native youth the skills they need to navigate their life's journey without being pulled off course by alcohol or drugs, using tribal values, traditions and culture both as a compass to guide them and an anchor to ground them. By reversing the historical trauma of forced assimilation, this approach attacks the root cause of so much substance abuse among tribal youth.

Example: The Association of Village Council Presidents has responded to the opioid crisis through the Healthy Families Program, which promotes and supports whole health through the sharing, teaching, and practice of traditional values through Elluarluteng Illakutellriit - a framework illustrating the Yup'ik life cycle of traditional practices, values and beliefs from Yup'ik Elders. This framework functions alongside western and medical practices to help individuals overcome their addictions permanently.

IV. Peacekeeping and Wellness Courts

Many Tribes have had success treating opioid offenders using traditional healing practices and alternative institutions, sometimes called wellness courts or peacekeeping courts.

Example: The Yurok Tribal Court, in coordination with the California State courts in Humboldt and Del Norte Counties, operates its Family Wellness Courts (FWC) for Yurok families suffering from opioid abuse problems. The FWC seeks to develop judicial practices that are consistent with Yurok tribal values and needs, combining the resources and expertise of both

systems. It focuses on reintegrating tribal members into the culture and life of the Yurok community and helping them establish a drug-free lifestyle.

V. Community Workforce Development and Training

Cultural competency training as well as community workforce development can be a critical tool for addressing gaps in services, especially in rural and remote tribal communities, where it can be extremely difficult to recruit and retain qualified health care professionals.

Example: In Alaska, the Community Health Aide Program (CHAP) has increased access to medical treatment to more than 170 rural Alaskan villages utilizing a workforce development model geared toward Native people. Under CHAP, individuals selected by their communities are provided with training as community health aides and practitioners to work in rural villages under the supervision of, and in collaboration with, higher level medical professionals, often aided by telemedicine technology. As part of CHAP, behavioral health aides (BHAs) are trained as counselors, educators and advocates to help address mental health and addiction issues.

Example: Part of the Swinomish Tribe's Didg^wálič treatment model, discussed above, is training for Tribal members with a goal of building a new generation of clinically trained and culturally competent Native counselors and providers.

EXHIBIT E

TRIBAL PARTICIPATION FORM

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

The tribal entity identified above (“Tribe”), in order to obtain and in consideration for the benefits provided to the Tribe pursuant to the Settlement Agreement dated August 16, 2023 (“McKinsey Settlement”), and acting through the undersigned authorized official, is an “Eligible Entity” as defined in the McKinsey Settlement, and hereby elects to participate in the McKinsey Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Tribe is aware of and has reviewed the McKinsey Settlement, understands that all terms in this Tribal Participation Form (“Form”) have their meanings defined therein, and agrees that by this Form, the Tribe elects to participate in the McKinsey Settlement and become a Participating Tribe as provided therein.
2. The Tribe agrees to be bound by the terms of the McKinsey Settlement pertaining to Tribes as defined therein.
3. By agreeing to the terms of the McKinsey Settlement and becoming a Releasor, the Tribe is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
4. The Tribe agrees to use any monies it receives through the McKinsey Settlement solely for the purposes provided therein.
5. By signing this Participation Form, the Tribe agrees that funds will be allocated pursuant to the McKinsey Settlement.
6. The Tribe agrees that any disputes arising out of this Agreement shall be heard before the Honorable Charles Breyer, the judge appointed to oversee MDL 2996, or the Chief Judge of the U.S. District Court for the Northern District of California.
7. The Tribe has the right to enforce the McKinsey Settlement as provided therein.

8. The Tribe, as a Participating Tribe, hereby becomes a Releasor for all purposes in the McKinsey Settlement, including but not limited to all provisions of Section II (Release), and along with (a) all departments, agencies, divisions, boards, commissions, subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, and hospital districts, of the Tribes, within the territory governed by the Tribe, and (c) any person or entity acting in a parens patriae, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the Tribe, whether or not any of them participate in the Agreement, provides for a release to the fullest extent of its authority. As a Releasor, the Tribe hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, 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 McKinsey Settlement are intended by the 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 each Releasor to release claims. The releases shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the McKinsey Settlement, the Tribe (for itself and its Releasors) 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 that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.
10. 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 the Tribe (for itself and its Releasors) hereby expressly waives and fully, finally, and forever settles, releases, and discharges, upon the Effective Date, 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 Participating Tribes' decision to enter into the McKinsey Settlement or the Participating Tribes' decision to participate in the McKinsey Settlement.
11. If the Tribe filed a case against McKinsey and is listed in Exhibit A-1 to the Settlement

Agreement, the Tribe agrees that its attorneys are authorized to execute a with-prejudice dismissal of any Released Claims that it has filed, and that Plaintiffs' Lead Counsel shall cause such dismissal to be filed with the Court promptly after the Effective Date in the form of a Stipulation of Dismissal..

12. Nothing herein is intended to modify in any way the terms of the McKinsey Settlement, to which Tribe hereby agrees. To the extent this Form is interpreted differently from the McKinsey Settlement in any respect, the McKinsey Settlement controls.

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

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT F-1

Tribal Allocation Order Number One

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

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	David R. Cohen
THIS DOCUMENT RELATES TO:)	Hon. Layn Phillips
“All Tribe Cases”)	
)	
)	<u>TRIBAL ALLOCATION ORDER NO. 1</u>
)	

Native American Indian Tribes have resolved their Opioid litigation with nine different defendants through the following seven Master Settlement Agreements: (1) the Allergan MSA; (2) the Teva MSA; (3) the Janssen MSA; (5) the Big Three Distributors MSA; (5) the CVS MSA; (6) the Walgreens MSA; and (7) the Walmart MSA.¹ Each of these seven MSAs provides that the undersigned are “Tribal Allocation Appointees” who are in charge of allocating the settlement funds amongst the Tribes.² The Directors of the respective Tribal Abatement Fund Trust (“TAFT”) then make “Abatement Distributions” to each Participating Tribe from that Tribe’s settlement fund allocation.³

¹ These seven MSAs are all available at www.TribalOpioidSettlements.com. The Tribes also reached settlements with Purdue and Mallinckrodt in bankruptcy, but this Order does not address those two settlements.

² *See, e.g.*, Allergan MSA §V.D.1 at 16 (“David R. Cohen and Layn Phillips in their capacities as Tribal Allocation Appointees are responsible to jointly determine the final inter-tribal allocation resulting in each Tribe’s Tribal Allocation Distribution Percentage for this settlement and for all other settlements between the TLC, the manufacturers, distributors, and pharmacies.”).

³ *See, e.g.*, Allergan MSA, Exhibit D “TAFT VII Trust Agreement” §4.1 (“The Directors shall make Abatement Distributions”); *id.* §4.2(b) (“Abatement Distributions shall be made to Participating Tribes in accordance with the Tribal Allocation Distribution Percentages”).

Accordingly, the Tribal Allocation Appointees now rule that settlement payments received by the operative TAFT under the seven MSAs shall be allocated as follows.

Payments Received by the TAFT in Calendar Year 2023

- 87.5% of all settlement payments received by the TAFT in Calendar Year 2023 are hereby allocated according to the June 18, 2021 Tribal Allocation Matrix, also known as the “Purdue Allocation.”⁴ The Directors may begin making Abatement Distributions from these payment shares at any time.
- Regarding the other 12.5% of the settlement payments received by the TAFT in Calendar Year 2023, the Appointees will allocate those payments according to various factors, including: (1) information provided by Tribes in their previously-submitted Allocation Briefs; and (2) updates to the data sets used in the Purdue Allocation. The Appointees expect to announce these allocations of the other 12.5% of the settlement payments in the next 180 days.

⁴ The Purdue Allocation may be found at Allergan MSA, Exhibit C (“List of Tribes and Tribal Allocation Voting Percentages”). It is also available in Excel Format at www.mdcentrality.com/nato/.

Note, however, that Cherokee Nation settled separately with CVS, Walgreens, Walmart, and the Big Three Distributors. Therefore, Cherokee Nation does not get any allocation under those Master Settlement Agreements, and the other Tribes receive an “Adjusted Purdue Allocation.” *See, e.g.,* Big Three Distributors MSA §I.B at 1 (referring to the “Adjusted Purdue Tribal Allocation Percentage”); *id.* §I.R at 3 (“The aggregate Final Tribal Allocation Distribution Percentages of all Tribes, excluding the Cherokee Nation, shall equal 100%.”); *id.* Exhibit L (listing Adjusted Purdue Tribal Allocation Percentages for all Tribes).

In sum: (A) 87.5% of all settlement payments received by the TAFT for the Allergan, Teva, and Janssen MSAs in Calendar Year 2023 are hereby allocated according to the Purdue Allocation; and (B) 87.5% of all settlement payments received by the TAFT for the CVS, Walgreens, Walmart, and Big Three Distributors MSAs in Calendar Year 2023 are hereby allocated according to the Adjusted Purdue Allocation.

- A Tribe’s total allocation for Calendar Year 2023 – that is, the allocation of the 87.5% share plus any additional allocation from the 12.5% share – shall be that Tribe’s “Initial Annual Allocation,” or “IAA.”

Payments Received by the TAFT in Later Calendar Years

- 92.5% of all settlement payments received by the TAFT in Calendar Years 2024 and later are hereby allocated according to the Initial Annual Allocation. The Directors may begin making Abatement Distributions from those payment shares at any time.
- Regarding the other 7.5% of the settlement payments received by the TAFT in Calendar Years 2024 and later, the Appointees will allocate those payments annually according to various factors, including: (1) information provided by Tribes in future Allocation Briefs; and (2) updates to the data sets used in the Purdue Allocation. The Appointees expect to announce these allocations of the other 7.5% of the settlement payments in the first quarter of each Calendar Year.
- The Appointees adopt this procedure of annual reassessment in order to address any changed circumstances. The Appointees may simply conclude that the 7.5% share should be allocated according to each Tribe’s IAA.

Use of Abatement Distributions

The seven MSAs each provide that all Tribes must use any Abatement Distributions made

by the Directors from the TAFT only for “Approved Uses.”⁵ These uses do not and may not include payment of attorney fees.⁶ To ensure proper use of settlement funds: (1) each Tribe must report to the Directors annually regarding its Opioid Remediation Expenditures; (2) the Directors must aggregate these Tribal reports and then, in turn, report annually to the Defendant and the Special Master; and (3) the Directors are authorized to monitor Tribal spending as it occurs.⁷

Accordingly, if the Appointees learn that a Tribe has used its Abatement Distributions for an unapproved use, the Appointees may immediately modify that Tribe’s allocation, including dropping the allocation to zero.

IT IS SO ORDERED.

/s/ David R. Cohen
Layn Philips

March 22, 2023

⁵ See, e.g., Allergan MSA, Exhibit D “TAFT VII Trust Agreement,” Exhibit 4 at 33 (noting that at least 95% of Abatement Distributions must be used for “Approved Tribal Opioid Abatement Uses,” and no more than 5% may be used for “Approved Administrative Expenses,” all of which are defined).

⁶ See, e.g., Allergan MSA §V.B.1 (“85% of [settlement] funds shall be paid to TAFT VII for distribution to Participating Tribes to use for Opioid Remediation . . . ; and 15% of such funds shall be set aside by the Special Master for the Attorney Fee Fund subject to Section VII to pay attorneys’ fees and litigation costs.”); *id.* §V.B.4 (“In no event may less than 85% of Allergan’s Compensatory Restitution Payments to the Allergan Settlement Trust be spent on Opioid Remediation. The Parties acknowledge and agree that the payments disbursed to the Tribes from TAFT VII in accordance with this Section V and Schedules B and D of the TAFT VII TDP are exclusively for Opioid Remediation.”).

⁷ See, e.g., Allergan MSA §V.F.2 at 18 (“The TAFT VII Directors shall, in consultation with the TLC, design and implement a system of annual reporting by Participating Tribes relating to Opioid Remediation expenditures made using funds received from TAFT VII. The TAFT VII Directors shall provide an annual Tribal Opioid Abatement Report to Allergan and the Special Master...”); *id.* Exhibit D “TAFT VII Trust Agreement” §2.1(c)(viii) (“The Directors shall have the power to: * * * supervise and administer the Trust in accordance with the Trust Documents, including without limitation monitor the Abatement Distribution recipients’ compliance with the TAFT VII TDP requirements for Approved Tribal Opioid Abatement Uses and Approved Administrative Expenses”).

EXHIBIT F-2

Tribal Allocation Order Number Two

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

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	David R. Cohen
THIS DOCUMENT RELATES TO:)	Hon. Layn Phillips
<i>“All Tribe Cases”</i>)	
)	
)	<u>TRIBAL ALLOCATION ORDER NO. 2</u>

INTRODUCTION

On March 22, 2023, the undersigned Tribal Allocation Appointees issued “*Tribal Allocation Order No. 1*” (hereinafter, “*TAO-1*”).¹ In *TAO-1*, the Appointees declared that settlement payments made under the seven Master Settlement Agreements and received by the TAFT in Calendar Year 2023 shall be allocated amongst the Tribes as follows:

- 87.5% of those settlement payments are allocated according to the “Purdue Allocation.”
- Allocation of the remaining 12.5% would be decided in a second Tribal Allocation Order (“*TAO-2*”).

See *TAO-1* at 2. The Appointees also explained in *TAO-1* how they would later allocate settlement payments received after Calendar Year 2023. *Id.* at 3.

This document is *TAO-2*. As promised, the Appointees now declare the allocation for the remaining 12.5% of settlement payments received by the TAFT in Calendar Year 2023. Specifically, for the reasons stated below, the undersigned conclude that the remaining 12.5% of

¹ TAO-1 is posted at www.tribalopioidsettlements.com/IntertribalAllocation.

those settlement payments shall *also* be allocated according to the “Purdue Allocation.”

In addition, the Appointees explain below modifications to how they will allocate settlement payments received after Calendar Year 2023.

I. The Remaining 12.5%.

As noted in *TAO-1*, to determine how to allocate the remaining 12.5% of the 2023 settlement payments, the Appointees needed more time to examine two principal factors: “(1) information provided by Tribes in their previously-submitted Allocation Briefs; and (2) updates to the data sets used in the Purdue Allocation.” *Id.* at 2. The Appointees have completed this examination and conclude as follows.

A. Allocation Briefs.

Regarding the Allocation Briefs, 70 different Tribes provided a total of 72 submissions – 46 Opening Submissions and 26 Response Submissions. (All but two of the Response Submissions were from Tribes that had not made an Opening Submission.) Many of the submissions, however, were identical – that is, counsel filed the same document on behalf of numerous Tribes.² Each Submission fell clearly into one of two groups: (1) requests by a Tribe for a higher share than contained in the Purdue Allocation; or (2) requests that no changes be made for *any* Tribe from the Purdue Allocation.

Regarding the former group, it was striking that nearly all Submissions beseeching a higher

² *See, e.g.*, “Cultural Heritage Partners Opening Submission,” submitted on behalf of 6 Tribes, including Monacan Indian Nation; “Sonosky Response Submission,” submitted on behalf of 22 Tribes, including Muscogee (Creek) Nation.

allocation relied upon the same evidence. Tribes repeatedly invoked extreme poverty, high unemployment rates, geographic remoteness, high rates of opioid misuse, increased levels of drug addiction and death, and lack of health care and treatment facilities. Tragically, these are not “extraordinary circumstances” that justify a different allocation for a given Tribe, because so many Tribes suffer the same situation – including Tribes that made no Submission at all. Indeed, the fact that *groups* of Tribes made identical Submissions citing to the same sad evidence undercuts the premise that their circumstances are extraordinary, and thereby justify a greater allocation of abatement funds at the expense of other Tribes.³

Regarding the latter group, the Appointees found most compelling the “Sonosky Response Submission” and the “Lieff Cabraser Response Submission.” Because the reasoning is fairly short and powerful, the latter is quoted here in its entirety:

We have reviewed the submissions regarding the Inter-Tribal Allocation of Settlement and strongly recommend that the Tribal Allocation Appointees utilize the [original] Purdue Allocation methodology The submissions reflect a common truth – that all Tribes have been significantly impacted by the opioids crisis in a variety of ways. Indeed, our Tribe has been impacted by many of the same factors described in the submissions, including but certainly not limited to: increased rates of addiction and overdoses; the dramatic increase in the presence of illegal opioids

³ Another problem with the Submissions is that some Tribes cite “opposite reasons” for an increased share. As one example, many Tribes assert they should get more funds because they are *small and rural*, which leads to increased costs to obtain medical support. *See, e.g.*, Keller Rohrback letter at 5 (Nez Pierce 2353) (“it is more difficult and costly to provide [health care] service[s] in a rural setting, and that fact should be reflected in the allocation of settlement funds”) (emphasis added). At the same time, however, some Tribes assert they should get more funds because they are *large and urban*, which leads to easier opioid access and higher medical costs. *See, e.g.*, Moskowitz letter at 2 (Seminole of Florida 2396) (arguing that, because its “members are principally based in . . . the most populous counties in Florida . . . , the Tribe “has suffered far more opioid-related overdoses and fatalities than most other states and counties”) (emphasis added). There is no non-subjective way for the Appointees to resolve this type of inconsistent argument; or, for that matter, to conclude one Tribe’s social problems are more deserving than another’s.

in our community and the resulting burdens imposed on our already over-stretched law enforcement; the major disruptions to families ravaged by opioids; the difficulty of providing care in rural communities; and the ongoing burdens to Tribal social services. The continuing economic demands to provide services and healing to our community is no less significant than those other Tribes highlighted in their submissions.

No amount of money will heal the harm inflicted by the Opioids Defendants on any Tribe participating in these settlements. It is therefore important that the Tribal Allocation Appointees adhere to the principles that served as the foundation for the Purdue Matrix – to utilize common, objective measures of the harm caused by the opioid epidemic throughout Indian country. Adjustments based on specific factors cannot be made for an individual Tribe unless similar adjustments are made for all Tribes experiencing those same factors. In that circumstance we would expect to be afforded the opportunity to submit similar information in order to insure a similar increase in the Tribe’s allocation.

The Purdue Allocation Matrix was known to each Tribe in advance of its determination to participate in these settlements. No Tribe should be forced to accept an allocation that materially deviates from the Matrix after that decision.

Lieff Cabraser letter at 1-2 (Yurok 2408).

The same reasoning is echoed and amplified by the Sonosky Chambers firm, which notes that all of its many clients (including 22 Tribes of all sizes located across the United States) unanimously “support the Purdue allocation based on three primary considerations: (1) the Purdue allocation’s use of consistent and objective data, (2) its fair and reasonable balancing of the many

competing interests at play, and (3) the need for prompt distribution of settlement funds.”⁴ In sum, the original Purdue Allocation is good, it’s easy, it’s finished, it’s fair, and the Tribes all agreed to it.

This leads to discussion of the second factor the Appointees considered regarding allocation of the remaining 12.5% of the 2023 settlement payments – whether to update the data sets used in the Purdue Allocation.

B. Updated Data Sets.

On September 12, 2022, the Appointees invited the Tribes to make Submissions on the topic of inter-Tribal allocation of settlement funds.⁵ This invitation asked Tribes to offer their view on “the degree to which allocation of the settlement funds should deviate from the [original] Purdue Allocation (if at all),” and also to provide their thoughts on the use of “updated data.” The invitation specifically noted that more recent information was available for at least four of the six data sets used in the Purdue Allocation, which was originally created in 2021. The Appointees believed that updating the Purdue Allocation with fresher information might more accurately reflect each Tribe’s

⁴ Sonosky letter at 3 (Navajo 2417). The 11-page Sonosky submission offers more detailed and additional reasons to simply use the Purdue Allocation, which the Appointees also find convincing. Among other points, Sonosky adds: (1) over 96% of of the Tribal Class in the Purdue bankruptcy voted in favor of the Restructuring Plan, and “it would undermine settled and reasonable expectations to now significantly deviate from the Purdue allocation . . . which was understood to be the presumptive allocation for the Janssen and Distributor settlements;” (2) the fact that only 35 [sic] of the 574 Tribes sent letter-briefs seeking a change to the Purdue Allocation speaks to its fairness without modification; (3) the Purdue Allocation uses objective data and tailored design “to drive settlement funds to those communities where these objective data demonstrate the impacts of the opioid epidemic are the most severe,” and this objectivity and fairness would be corrupted by exceptions based on anecdote; and (4) any process of changing the Purdue allocation would require administrative time, effort, and costs that would ultimately diminish the settlement corpus and possibly delay payments.

⁵ See www.mdlcentrality.com/nato/Docs/Allocation_Letter_to_Counsel.pdf.

present circumstances, while the salutary methodology employed in the original Purdue Allocation – such as the use of objective data, and of relative data set weightings agreed upon by all Tribes – would remain true for an updated Allocation, too. But the Appointees wanted to receive all views for and against updating the data sets.

The positions on each side of this question are set forth in these two Submissions:

For Updating the Purdue Allocation –Weitz & Luxenberg letter at 2-3 (Passamaquoddy 2394):

[T]he opioid epidemic has worsened significantly at Indian Township since the Inter-Tribal allocation percentages for the Purdue Bankruptcy were approved by Judge Phillips in May 2021. Moreover, much of the data utilized in calculating the percentages are now outdated (e.g., the metric for overdose rates was based on data from 2003-2017). Indeed, as [the Appointees’] September 12, 2022, memo recognizes: “It appears that datasets 2, 3, 5, and 6 [of the methodology] can be updated with more recent information.”

The Tribe lacks the resources to retain an expert to prepare a granular analysis of the Purdue allocation methodology on its community. Nevertheless, current published data (e.g., CDC) clearly shows the datasets used in the six metrics utilized for the Purdue methodology are outdated. This new data shows that the opioid crisis — particularly the overdose death and opioid use disorder (OUD) rates, the poverty rate, and the cost of living— has worsened significantly since the time periods covered by the Purdue datasets. When this occurs in smaller, rural tribes, who simultaneously lack sufficient funding of their opioid-related programs and services, the impact on the community is necessarily magnified. As a consequence, their suffering is disproportionate and justifies consideration of an upward adjustment of their allocation in this settlement.

Against Updating the Purdue Allocation – Sonosky letter at 10 (Navajo 2417):

[T]he time and complexities of updating the various datasets (including the prospect of ‘updating’ data annually over the course of the next decade or more) is outweighed by the importance of distributing all tribal opioid funds from all sources in a consistent, efficient, and predictable manner, without further delay. * * *

While data, especially population data, will change over time for any given tribe, it will also change for all tribes, and the changes are most likely to be in the same direction. Thus, the relative impact of a change in one tribe’s data as compared

to another—which is the only important consequence here in terms of the relative allocation of funding—is likely to be exceedingly small and therefore unlikely to justify the burden, cost, risk of mistake, and inevitable delay that incorporating changed data would likely entail. [Indeed,] the States have determined that the allocations in the State/Subdivision settlements will remain static for the duration of the settlement payout period, despite the long (18-year) timeframe.

The Appointees decided to go ahead and test the concept of using updated data sets and produced an “updated Purdue Allocation” using more recent information. Having done so, the Appointees conclude that the data-update process is complicated and yields changes to Tribal allocations that are often fairly small, suggesting it is not worth the time, money, and effort. Further, the Appointees are left with substantial concern that different results between the original and updated Purdue Allocations may be driven by statistical peculiarities within the model and not actual changes in real data.⁶ And finally, experimenting with different amendments to the Purdue Allocation drives home the truth that there is no way to provide an upward deviation for one Tribe without forcing a corresponding downward deviation for some other, deserving Tribes.

In sum, the Appointees are convinced that the positions espoused in the Sonosky Response Submission are well-taken. The Appointees conclude the remaining 12.5% of settlement payments received by the TAFT in Calendar Year 2023 should be allocated just as was the first 87.5% – that

⁶ Some data sets used to manufacture the Purdue Allocation can be updated regularly, and some cannot. Even as to those data sets that are easily updated, the final allocation requires drawing many inferences. For example, although it is easy to obtain updated county population statistics, the model then makes numerous assumptions about the number of Native American deaths in a county (i.e., county death rate times *estimated* percentage of Indians in the county to yield number of Indian deaths) and uses a *negotiated* “disproportionate impact multiplier” to impute opioid death rate. Thus, while the difference between original and updated Purdue Allocations takes into account Tribe population change, there is too much fudge in the recipe to be confident that the resulting change in allocation is truly, objectively appropriate.

is, according to the Purdue Allocation.⁷

II. Payments Received by the TAFT in Later Calendar Years.

In *TAO-1*, the Appointees described how they would allocate settlement payments received in Calendar Years 2024 and beyond. The process was somewhat involved.⁸

Upon further reflection, the Appointees conclude that the simplest and fairest allocation going forward is that settlement funds made under the seven Master Settlement Agreements and

⁷ Accordingly, each Tribe's "Initial Annual Allocation," or "IAA," is simply its Purdue Allocation. *See TAO-1* at 3.

⁸ The Appointees stated that, in 2024 and beyond, they would allocate settlement payments as follows:

- 92.5% of all settlement payments received by the TAFT in Calendar Years 2024 and later are hereby allocated according to the Initial Annual Allocation. The Directors may begin making Abatement Distributions from those payment shares at any time.
- Regarding the other 7.5% of the settlement payments received by the TAFT in Calendar Years 2024 and later, the Appointees will allocate those payments annually according to various factors, including: (1) information provided by Tribes in future Allocation Briefs; and (2) updates to the data sets used in the Purdue Allocation. The Appointees expect to announce these allocations of the other 7.5% of the settlement payments in the first quarter of each Calendar Year.
- The Appointees adopt this procedure of annual reassessment in order to address any changed circumstances. The Appointees may simply conclude that the 7.5% share should be allocated according to each Tribe's IAA.

TAO-1 at 3.

received by the TAFT in **all** Calendar Years shall be allocated according to the Purdue Allocation.

The only exception will be in the event of truly extraordinary circumstances.⁹

IT IS SO ORDERED.

/s/ David R. Cohen
Layn Philips

May 16, 2023

⁹ For example, if – God forbid – a Tribe completely ceased to exist, the Appointees would have to change the Purdue Allocation (probably by simply re-allocating that Tribe’s share pro rata). Unless, in the future, a Tribe moves for modification of the Purdue Allocation based on an extraordinary circumstance that *undeniably* calls for amendment, the Appointees’ decision that settlement funds shall be allocated according to the Purdue Allocation in *all* Calendar Years will stand.