

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE NATIONAL
PRESCRIPTION
OPIATE LITIGATION**

CASE NO. 1:17-MD-2804

**THIS DOCUMENT RELATES
TO:
“All Cases”**

) **David R. Cohen**
) **Randi S. Ellis**
) **Hon. David R. Herndon**
)
) **FEE PANEL ORDER NO. 36-D**
) **REGARDING ADJUSTMENTS**
) **TO COMMON BENEFIT AMOUNT**
) **TO BE PAID BY TEVA**

I. Adjustments to Teva’s Payment Obligations to the Common Benefit Fee Fund

Exhibit R §III.H.6 of the *Teva Public Global Opioid Settlement Agreement* states as follows:

With respect to the Common Benefit Fund, the Fee Panel shall (subject to any applicable MDL Court Order):

- a. Review the applications of all Applicants seeking compensation from the Common Benefit Fund, including determining eligibility for each Applicant as set forth in Section III.G.
- b. Reduce, on an annual basis, ... Teva’s payment obligations, as set forth in paragraph III.E.7. The Panel shall inform ... Teva and the MDL PEC of all such amounts and adjust payment obligations accordingly.
- c. Using criteria set forth in subsections III.E and III.H, allocate amounts from the Common Benefit Fund to eligible Attorneys, including payment amounts for each Payment Year. In making such allocations, the Panel shall apply the principles set forth in paragraph III.E.6 and shall allocate any reduction in the payments specified in paragraph III.E.7 to the amounts paid to Applicants with a Common Benefit Fee Entitlement.

The Fee Panel completed the requirements of Exhibit R §III.H.6.a&b and is in the process of completing the requirements of Exhibit R §III.H.6.c. The Fee Panel informed Teva and the MDL PEC of the adjustments to Teva's payment obligations to the Common Benefit Fund. The Fee Panel allowed Teva and the MDL PEC an opportunity to review and, if necessary, dispute the calculations related to the amounts Teva is required to pay. Neither Teva nor the MDL PEC disputed the adjustments to the Teva Common Benefit Fund. Therefore, the Fee Panel now declares the amounts listed below are no longer subject to objection.

II. Teva's Obligation to Make Payments Into the Common Benefit Fee Fund

Pursuant to Exhibit R §III.E.1 of the *Teva Public Global Opioid Settlement Agreement*, Teva is required to pay \$187,977,016.52 into the Teva Common Benefit Fund. This payment amount is subject to the adjustments set forth in Exhibit R. Pursuant to §III.E.9, "If ... Teva agree[s] to go forward with their ... Agreement ... they shall pay the full Common Benefit (60%) Fee into the Common Benefit Fund without regard to the number of Settling States or Participating Subdivisions.

III. Reductions to Common Benefit Amount Teva is Required to Pay

Pursuant to Exhibit R §III.E.9, "Should ... Teva pay a judgment to, or settle with, a Non-Participating State or a Non-Participating Litigating Subdivision subsequent to the Reference Date, and such settlement or judgment results in a common benefit fee assessment paid into the Common Benefit Fund or the Court Common Benefit Fund, the following [reductions] shall apply...."

A. Non-Settling States

According to participation data reported to the Fee Panel by the Directing Administrator, the State of Nevada was the only Non-Settling State as of the Reference Date. The terms and

conditions of the Nevada-Teva settlement resulted in a common benefit fee assessment of \$6,043,881.95 to be paid into the Court Common Benefit Fund.

Pursuant to Exhibit R §III.E.9.a, “Teva ... shall be credited dollar-for-dollar for the amount paid for the fee assessment up to 7.5% of the abatement amount derived from the application of the State Global Allocation Percentage as set forth in Exhibit F-1 ... that the Non-Participating State ... would have received if it had participated in the Settlement Agreement.

Non-Settling State	Total Abatement Amount	F-1 Percentage	§III.E.9.a	Total Reduction
Nevada	\$ 3,611,561,762.00	1.2017657135%	7.5%	\$ 3,255,188.32

Therefore, the Fee Panel concludes, with respect to Non-Settling States, Teva is owed a reduction to the amount it is required to pay into the common benefit fund of \$3,255,188.32. Consistent with the terms of conditions of Exhibit R §III.E.9.e, this reduction will take place in Payment Year 6.

B. Non-Participating Litigating Subdivisions

According to participation data reported to the Fee Panel by the Directing Administrator, there were two Non-Participating Litigating Subdivisions as of the Reference Date:

1. City of Baltimore, MD; and
2. District Attorney of Allegheny County, PA.

As of the date of this Fee Panel Order, Teva has not settled with the City of Baltimore, MD or the District Attorney of Allegheny County, PA. If a settlement with either of these two plaintiffs results in a Common Benefit Fund or Court Common Benefit Fund assessment, then, pursuant to Exhibit R §III.E.9, the Fee Panel will revise the amount Teva is required to pay into the Common Benefit Fund. To date, no common benefit assessments have been paid into the Common Benefit Fund or Court Common Benefit Fund as a result of Teva settling with Non-Participating Litigating

Subdivisions. Therefore, as of the date of this Fee Panel Order, Teva is not entitled to a reduction of the amount it is required to contribute based on Non-Participating Litigating Subdivisions.¹

IV. Revised Amount Teva is Required to Pay Into Common Benefit Fund

Overall, the Fee Panel concludes that Teva is entitled to a reduction of \$3,255,188.32. Pursuant to Exhibit R §III.E.7, “Any reduction in payment obligation or credit to be given Teva ... in this Fee Agreement shall be applied against the last Payment Year ... and working backwards.”

The revised Common Benefit Payment Obligation schedule is as follows:

Payment Year	Exhibit R Common Benefit Schedule	Revised Common Benefit Schedule
Payment Year 1	\$27,729,502.76	\$27,729,502.67
Payment Year 2	\$27,729,502.76	\$27,729,502.67
Payment Year 3	\$33,129,502.75	\$33,129,502.75
Payment Year 4	\$33,129,502.75	\$33,129,502.75
Payment Year 5	\$33,129,502.75	\$33,129,502.75
Payment Year 6	\$33,129,502.75	\$29,874,314.43
	\$187,977,016.52	\$184,721,828.20

IT IS SO ORDERED.

/s/ **David R. Cohen**
Randi S. Ellis
David R. Herndon
FEE PANEL

Dated: August 7, 2024

¹ The amount Teva is required to contribute to the Contingency Fee Fund was reduced due to the two Non-Participating Litigating Subdivisions. See FPO 34 available at: <https://opioidfeepaneldocuments.com/home-2/fee-panel-orders/>