

November 15, 2022

Opioid Litigation Update

Please be advised that the settlement with J&J/Janssen has been finalized. After a lot of work, the final allocation and distribution methodology has been finished and detailed in a report to the Court by the Special Master. The Special Master's report is attached hereto for your review. Exhibit A to the Special Master's Report gives the amount of the J&J/Janssen settlement that will be allocated to each town, city, county, public hospital and/or board of health in the State of Alabama.

The amounts shown in Exhibit A are *after* attorneys' fees and expenses, as detailed in the Special Master's report. Please note that the J&J/Janssen settlement will be paid in one lump sum (unlike the McKesson settlement that will be paid over time). We anticipate this settlement being funded within the next two months and will keep you updated with the status.

As always, if you have any questions or concerns, please do not hesitate to give us a call.

Sincerely,



Matt Conn

MC/tm

Enclosures:

(1) Special Master's Report for J&J/Janssen Settlement

cc:

Jeff Friedman

**Janssen-Alabama
Litigating Local Governments &
Litigating Local Governmental Public Health Entities
Special Master Report**

**I. Total Amount to State and Gross Amounts to Litigating Local Governments and
Litigating Public Health Entities**

Pursuant to §V.B of the *Janssen Alabama State-Wide Opioid Settlement Agreement* (“JASA”), “Janssen shall pay to the State of Alabama the sum of \$70,329,014.38, plus fees and costs... subject to any holdback under subsection V.C. below.” Pursuant to §B.1 of the *McKesson and Janssen Opioid Settlement Allocation Agreement*, “The State, Political Subdivisions [Litigating Local Governments (“LLGs”)] and Litigating Governmental Public Health Entities [LGPHE] shall divide all Settlement Funds with 50% going to the State, 40% going to the Political Subdivisions [Litigating Local Governments], and 10% going to the Litigating Governmental Public Health Entities.

Therefore, the gross amounts to the State, LLGs, and LGPHE, before considering holdbacks, if applicable, fees, and expenses are as follows:

Gross Settlement Summary before Fees & Expenses	Percentage	Gross Amounts
State of Alabama	50%	\$35,164,507.19
Litigating Local Governments	40%	\$28,131,605.75
Litigating Local Governmental Public Health Entities	10%	\$7,032,901.44
		\$70,329,014.38

II. LLG & LPGHE Administrative & Miscellaneous Fees & Expenses

Pursuant to the *Order Establishing Qualified Settlement Fund and Appointing Receiver for the Fund* (see Doc. 2834) and the *Order Appointing Special Master* (see Doc. 2839), the administrative fees and costs attributable to the LLG and LGPHE portions of the JASA are \$60,000.00. Pursuant §2 of the Appointing Order, \$30,000.00 shall be paid to Special Master

Joseph Tann. In addition, under the ¶8 QSF Order, \$30,000.00 shall be paid to Richard Weinberg of Winbridge Partners for his services as the court-appointed receiver.

III. Attorneys' Fees

A. Attorneys' Fees – Contingency Fees

Section IX.A.1 of the JASA provides for \$5,074,243.46¹ to be paid to the State of Alabama, “to reimburse attorneys’ fees for the State, Participating Litigating Subdivisions, and Special Districts.” Attorneys for the State and LLGs/LGPHEs agreed that this amount will be used to pay attorneys’ fees for the LLGs/LGPHEs, not attorneys’ fees for the State. The allocation/division of the \$5,074,243.46 fee fund was determined by multiplying the percentage of the LLG/LGPHE funds to be received by the client by the applicable contingency fee contract rate, capped at a rate of 25%. In other words, the formula used the lower of: (a) the actual contract rate, or (b) 25%.

However, the amount of compensation available under §IX.A.1 of the JASA, which would have resulted in a cumulative average contingency fee of 12.6% after adding the attorney fee fund payment back to the gross amounts for the LLGs/LGPHEs is insufficient compensation for counsel to the more than 250 LLGs/LLGHEs receiving payments under the JASA who have valid and enforceable contingency fee agreements with their LLG/LGPHE clients ranging from 20% to 40%.

B. Backstop/Deficiency Fund

To address the insufficient compensation afforded to counsel for LLGs/LGPHEs, an additional \$3,670,123.20 was made available from the gross amounts to the LLGs/LGPHEs listed in the chart in Section I above. When added to the \$5,074,243.46 from §IX.A.1 of the JASA, this results in a total gross amount of \$8,744,366.66 to pay contingent fee contracts, after accounting

¹ Pursuant to §2 of the Appointing Order, the Special Master “shall receive a separate payment of \$30,000... for work performed to determine the necessary and appropriate methodology for allocating attorneys’ fees to local government attorneys and Litigating Governmental Public Health Entities attorneys, whether the attorney fees are distributed through an Attorney Fee Fund, a deficiency fund, a backstop fund, or otherwise.” The expense will be taken out of the Attorney Fee Fund (§IX.A.1 of the JASA), before the allocations to counsel are determined.

for administrative expenses. Counsel either has been, or will be, notified by the Special Master, in writing, of the attorney fee award for each of the LLG/LPGHE clients that they represent. Counsel for the LLGs/LGPHEs waived enforcement of their contracts other than in compliance with the terms and conditions contained within this report.

C. Attorneys' Fees - Common Benefit Fund

To compensate the court-appointed Committees for common benefit work (*see* Doc. 2675), the Court ordered that “two percent (2%) of the portion of the Johnson & Johnson and McKesson settlements be allocated to the Alabama local governments, boards of health, and public health authorities that have filed cases in the MDL” be paid into the Committee Fee Fund, as defined by the Court in Doc. 2675. Because all of the participating LLGs either are or were docketed in *MDL 2804 In Re: National Prescription Opioid Litigation*, exactly 2% of the gross amount attributable to LLGs listed in the chart in Section I above is subject to the 2% assessment ($2.000\% \times \$28,131,605.75 = \$562,632.12$). However, nearly half the LGPHE cases, by allocation percentage, either are, or were, pending in state court, so only 1.03% of the gross amount attributable to LGPHEs listed in the chart in Section I above is subject to the 2% assessment ($\sim 1.034\% \times \$7,032,901.44 = \$72,724.29$).

Combined, the total Committee Fee Fund award for the JASA is \$635,356.41. The court-appointed Committee Fee Fund members voluntarily agreed to the division and allocation of the Committee Fee Fund compensation, and the Special Master accepted their agreement.

IV. Payment Amounts to Litigating Local Governments & Litigating Local Governmental Public Health Entities

A. Payments to Litigating Local Governments

Net of all applicable administrative fees and expenses, of the original \$28,131,605.75 gross amount allocated to LLGs², \$24,600,227.10 (87.45%) is available to pay LLGs. The methodology for awarding the \$24,600,227.10 to LLGs is substantially similar to the methodology used in MDL 2804. At the county level, the model incorporates the following factors:

1. The number of persons suffering from opioid use disorder in the county.
2. The number of overdose deaths that occurred in the county.
3. The amount of opioids distributed within the county by Morphine Milligram Equivalent

For Cities/Towns, the formula draws on US Census Bureau data on local government spending by function. The functions or expenditure categories examined for each jurisdiction were: elementary and secondary education net of capital outlay, public welfare (including child protective services), hospitals net of capital outlay, health, police protection, fire protection, corrections net of capital outlay, housing and community development, and judicial and legal.

All Alabama Litigating Local Governments participating in the JASA were assigned an allocation amount using the allocation model referenced above and the \$24,600,227.10 for LLGs is hereby allocated as set forth in the attached Exhibit A. If an LLG wishes to object to an allocation amount, it must do so **no later than 5:00 pm CDT on November 21, 2022, at which time all LLG allocations will become final.**

² This calculation excludes the attorneys' fees paid pursuant to §IX.A.1 of the JASA, because those funds were never available for distribution to LLGs/LGPHEs.

B. Payments to Local Governmental Public Health Entities

Net of all applicable administrative fees and expenses, of the original \$7,032,901.44 gross amount allocated to LGPHEs³, \$6,198,900.40 (88.14%) is available to pay LGPHEs. The allocation percentages for payments to LGPHEs were determined by an arbitration proceeding that was conducted by the Honorable Sally Shushan, a retired federal magistrate judge for the United States District Court for the Eastern District of Louisiana. The final allocation percentages for LGPHEs are attached hereto as Exhibit B. The LGPHE allocations are final and are not subject to further dispute or objection.

Local Government Summary Chart

Description	Amount	Classified	Percentage
Payable to LLGs	\$24,600,227.10	\$30,799,027.58	76.5%
Payable to LGPHEs	\$6,198,800.48		
Payable to Attorney Fee Fund (LLGs)	\$4,035,394.77	\$6,956,141.30	17.3%
Payable to Backstop/Deficiency Fund (LLGs)	\$2,920,746.53		
Payable to Attorney Fee Fund (LGPHEs)	\$1,008,848.69	\$1,758,225.36	4.4%
Payable to Backstop/Deficiency Fund (LGPHEs)	\$749,376.67		
Payable to Common Benefit	\$635,356.41	\$635,356.41	1.6%
Payable to Admin/Misc. Expenses	\$90,000.00	\$90,000.00	0.2%
TOTAL	\$40,238,750.65	\$40,238,750.65	100.0%

IT IS SO ORDERED

SPECIAL MASTER



Joseph C. Tann, ESQ

³ This calculation excludes the attorneys' fees paid pursuant to §IX.A.1 of the JASA, because those funds were never available for distribution to LLGs/LGPHEs.

Exhibit A
LLG Allocations
Janssen-Alabama
Litigating Local Governments &
Litigating Local Governmental Public Health Entities
Special Master Report

\$24,600,227.10

Litigating Local Government	Net Allocation to Subdivision
Abbeville	\$16,549.17
Alabaster	\$156,786.01
Albertville	\$92,622.45
Alexander City	\$95,543.47
Anniston	\$246,703.76
Arab	\$59,286.10
Argo	\$7,373.58
Ashland	\$12,023.06
Ashville	\$5,541.30
Athens	\$107,741.88
Attalla	\$50,672.07
Auburn	\$152,084.86
<i>Autauga County</i>	\$77,602.80
<i>Baldwin County</i>	\$452,818.80
<i>Barbour County</i>	\$22,412.55
Bay Minette	\$38,849.99
Berry	\$6,345.80
Bessemer	\$180,615.73
<i>Bibb County</i>	\$101,343.37
Birmingham	\$1,288,762.75
<i>Blount County</i>	\$229,077.93
Boaz	\$51,105.61
Brent	\$19,197.97
Brewton	\$68,160.06
Bridgeport	\$465.99
Brookwood	\$2,145.55
Brundidge	\$3,356.67
<i>Bullock County</i>	\$19,769.00
Butler	\$25,265.38
<i>Butler County</i>	\$16,550.24
Calera	\$74,902.34
<i>Calhoun County</i>	\$224,846.86
Camp Hill	\$1,870.86

Exhibit A
LLG Allocations

Carbon Hill	\$28,722.43
Cedar Bluff	\$17,636.07
Center Point	\$3,305.23
Centre	\$44,505.70
Centreville	\$7,058.08
Chambers County	\$131,344.12
Cherokee	\$2,579.36
Cherokee County	\$93,858.70
Chickasaw	\$24,839.72
Childersburg	\$29,794.26
Chilton County	\$202,763.10
Choctaw County	\$38,731.02
Clanton	\$51,987.21
Clarke County	\$73,956.05
Clay County	\$50,998.11
Cleburne County	\$63,185.29
Cleveland	\$3,926.26
Coffee County	\$96,028.01
Colbert County	\$98,059.58
Columbiana	\$15,420.21
Conecuh County	\$47,570.32
Coosa County	\$37,509.05
Cordova	\$29,453.65
Covington County	\$140,728.69
Crenshaw County	\$44,278.13
Cullman	\$165,685.59
Cullman County	\$276,204.00
Dadeville	\$7,448.16
Dale County	\$74,906.03
Daleville	\$23,877.29
Dallas County	\$63,703.47
Daphne	\$98,956.19
Dauphin Island	\$14,205.36
De Kalb County	\$123,378.62
Decatur	\$580,158.10
Demopolis	\$45,070.49
Dora	\$28,459.17
Dothan	\$335,804.06
Double Springs	\$24,716.90
Douglas	\$299.60

Exhibit A
LLG Allocations

East Brewton	\$8,182.63
<i>Elmore County</i>	\$171,381.18
Enterprise	\$102,392.62
<i>Escambia County</i>	\$200,696.94
<i>Etowah County</i>	\$316,696.89
Eufaula	\$65,476.72
Evergreen	\$12,766.38
Fairfield	\$36,032.11
Fairhope	\$68,768.24
Faunsdale	\$84.90
<i>Fayette County</i>	\$42,739.55
Fayette	\$24,277.50
Florence	\$274,645.46
Foley	\$105,927.35
Fort Deposit	\$1,589.45
Fort Payne	\$179,281.91
<i>Franklin County</i>	\$88,724.29
Fultondale	\$29,353.16
Gadsden	\$257,640.61
Geneva	\$20,447.57
<i>Geneva County</i>	\$67,970.36
Georgiana	\$5,646.66
Geraldine	\$3,391.55
Gilbertown	\$620.79
Grant	\$5,243.07
Graysville	\$11,345.66
<i>Greene County</i>	\$21,724.43
Greensboro	\$7,686.26
Greenville	\$52,709.99
Guin	\$7,808.71
Gulf Shores	\$150,253.65
Guntersville	\$78,286.42
Gurley	\$2,315.07
<i>Hale County</i>	\$40,622.24
Haleyville	\$43,919.34
Hamilton	\$27,818.56
Hammondville	\$1,510.11
Hartselle	\$19,583.57
Headland	\$19,338.34
Helena	\$42,935.27

Exhibit A
LLG Allocations

Henagar	\$10,570.76
Henry County	\$25,053.95
Homewood	\$123,207.69
Hoover	\$436,822.98
Houston County	\$172,076.05
Hueytown	\$59,887.97
Huntsville	\$982,235.42
Irondale	\$53,479.73
Jackson County	\$48,687.34
Jacksonville	\$77,027.47
Jasper	\$434,211.78
Jefferson County	\$1,696,349.99
Killen	\$5,645.96
Lamar County	\$50,142.11
Lanett	\$39,423.08
Lauderdale County	\$147,401.34
Lawrence County	\$139,697.71
Leeds	\$46,175.01
Leesburg	\$5,909.48
Leighton	\$1,739.22
Level Plains	\$1,079.80
Limestone County	\$179,215.72
Lincoln	\$56,874.17
Linden	\$5,291.31
Locust Fork	\$1,203.67
Louisville	\$1,426.55
Lowndes County	\$21,379.00
Loxley	\$12,668.69
Luverne	\$4,719.19
Macon County	\$42,033.61
Madison County	\$404,201.48
Madison	\$145,026.61
Marengo County	\$15,338.19
Marion	\$7,253.92
Marion County	\$68,672.13
Marshall County	\$228,414.30
McKenzie	\$1,356.86
Midfield	\$119.88
Millbrook	\$76,240.40
Mobile	\$994,060.76

Exhibit A
LLG Allocations

<i>Mobile County</i>	\$850,120.00
<i>Monroe County</i>	\$57,981.56
Monroeville	\$32,707.10
Montgomery	\$547,380.25
<i>Montgomery County</i>	\$301,933.10
Moody	\$11,151.44
<i>Morgan County</i>	\$96,628.31
Moulton	\$41,720.61
Mountain Brook	\$109,808.89
Munford	\$7,446.87
Muscle Shoals	\$82,627.69
Nauvoo	\$5,760.99
New Hope	\$4,028.23
Northport	\$130,639.09
Oakman	\$12,904.29
Oneonta	\$83,282.45
Opelika	\$165,262.57
Opp	\$28,536.18
Orange Beach	\$90,600.60
Oxford	\$108,529.23
Ozark	\$90,855.35
Parrish	\$35,992.50
Pelham	\$211,706.96
Pell City	\$136,880.34
<i>Perry County</i>	\$15,670.22
Phenix City	\$192,784.61
<i>Pickens County</i>	\$88,275.86
Piedmont	\$44,192.61
<i>Pike County</i>	\$9,152.18
Pleasant Grove	\$15,918.17
Powell	\$1,633.88
Prattville	\$185,814.68
Priceville	\$3,750.36
Prichard	\$33,890.72
Ragland	\$4,680.84
Rainbow City	\$41,455.84
Rainsville	\$57,953.47
<i>Randolph County</i>	\$54,662.44
Red Bay	\$19,325.28
Roanoke	\$33,595.84

Exhibit A
LLG Allocations

Robertsdale	\$26,377.70
Rockford	\$1,812.82
<i>Russell County</i>	\$52,474.14
Russellville	\$97,602.38
Saraland	\$76,529.28
Satsuma	\$19,281.12
Scottsboro	\$204,368.55
Selma	\$81,294.34
Semmes	\$12,937.03
Sheffield	\$49,567.77
<i>Shelby County</i>	\$504,343.03
Sipsey	\$11,576.61
Slocomb	\$13,625.52
Spanish Fort	\$9,053.94
Springville	\$17,805.58
<i>St Clair County</i>	\$319,654.22
Sumiton	\$71,634.58
Summerdale	\$7,546.76
<i>Sumter County</i>	\$36,385.30
Sweet Water	\$92.40
Sylacauga	\$71,096.54
Talladega	\$70,284.27
<i>Talladega County</i>	\$158,878.87
<i>Tallapoosa County</i>	\$59,966.01
Tarrant	\$28,334.18
Thomasville	\$27,264.84
Troy	\$101,093.87
Trussville	\$75,297.94
Tuscaloosa	\$600,958.31
<i>Tuscaloosa County</i>	\$311,835.57
Tuscumbia	\$25,970.39
Tuskegee	\$28,270.81
Union Springs	\$13,030.78
Uniontown	\$5,588.53
Vance	\$2,965.74
Vernon	\$9,766.07
Vestavia Hills	\$94,971.75
<i>Walker County</i>	\$450,773.51
<i>Washington County</i>	\$49,692.32
Weaver	\$13,020.72

Exhibit A
LLG Allocations

West Blocton	\$12,457.51
Wetumpka	\$51,129.76
<i>Wilcox County</i>	\$27,075.63
Winfield	\$58,591.68
Woodville	\$142.07
Yellow Bluff	\$902.64

Exhibit B
LGPHE Allocations
Janssen-Alabama
Litigating Local Governments &
Litigating Local Governmental Public Health Entities
Special Master Report

\$6,198,800.48	
Litigating Governmental Public Health Entities	Net Allocation to LGPHE
Bibb County Healthcare Authority d/b/a Bibb Medical Center	\$161,658.60
Dale County Healthcare Authority d/b/a Dale Medical Center	\$92,228.31
DCH Health Care Authority (Tuscaloosa) (d/b/a DCH Regional Medical Center and Northport Medical Center	\$627,981.50
Escambia County Health Care Authority d/b/a D.W. McMillan Memorial Hospital and Atmore Community Hospital	\$47,668.56
Geneva County Health Care Authority d/b/a Wiregrass Medical Center	\$150,259.60
Health Care Authority of Clarke County d/b/a Grove Hill Memorial Hospital	\$31,088.19
Healthcare Authority for Baptist Health, an affiliate of UAB Health System d/b/a Baptist Medical Center East (Montgomery)	\$190,674.25
Healthcare Authority for Baptist Health, an affiliate of UAB Health System d/b/a Baptist Medical Center South (Montgomery)	\$401,037.69
Healthcare Authority for Baptist Health, an affiliate of UAB Health System d/b/a Prattville Baptist Hospital	\$56,995.02
Lakeland Community Hospital HCA Winston County	\$60,103.84
Medical West Hospital Authority (UAB)	\$256,995.73
Monroe County Health Care Authority d/b/a Monroe County Hospital	\$50,777.38
Sylacauga Health Care Authority d/b/a Coosa Valley Medical Center	\$147,150.78
Greene County Health System	\$95,337.12
Tombigbee Health Care Authority d/b/a Brian W. Whitfield Memorial Hospital	\$63,212.66
Attentus Mouton, LLC d/b/a Lawrence Medical Center (Lawrence County Health Care Authority)	\$43,560.36
Cullman Regional Medical Center, Inc. (Healthcare Authority of Cullman County)	\$134,733.19

Exhibit B
LGPHE Allocations

Decatur Morgan Hospital-Parkway (Health Care Authority of the City of Huntsville)	\$121,563.78
Health Care Authority of the City of Huntsville d/b/a Huntsville Hospital	\$934,015.06
HH Health System-Athens Limestone, LLC d/b/a Athens Limestone Hospital (Healthcare Authority of the City of Huntsville)	\$66,860.08
HH Health System-Morgan, LLC d/b/a Decatur Morgan Hospital Decatur	\$334,300.40
HH Health Systems-Shoals LLC d/b/a Hellen Keller Hospital (Healthcare Authority of the City of Huntsville)	\$174,241.42
HH Health Systems-Shoals, LLC d/b/a Red Bay Hospital (Healthcare Authority of the City of Huntsville)	\$25,325.79
Jackson County Healthcare Authority	\$96,237.99
Marshall County Health Care Authority	\$91,172.84
Marshall County Health Care Authority	\$197,541.15
Jefferson County Board of Health	\$950,284.34
Mobile County Board of Health	\$595,794.85