

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

***In re: Suboxone (Buprenorphine/
Naloxone) Film Products Liability
Litigation***

This document relates to: All Actions

Case No. 1:24-md-03092-JPC

Judge J. Philip Calabrese

Motion to Appoint Plaintiffs' Leadership

I. Introduction

The undersigned respectfully request that the Court appoint the consensus leadership committee detailed below. Defendants do not oppose this proposal and the undersigned are aware of no objections to it. The slate brings together attorneys from across the nation with a proven track record of successful MDL leadership who have collaborated for months on all aspects of case development and represent the vast majority of Suboxone film plaintiffs. A proposed order is attached.

II. Selection criteria

In CMO 1, the Court set the following selection criteria: “(1) ability to work cooperatively with others and solve novel or complex problems practically, efficiently, and creatively; (2) willingness and ability to commit to a lengthy and time-consuming process; (3) professional experience in this type of litigation; and (4) access to sufficient resources to advance the litigation in a timely manner.” ECF No. 7. The Court also noted its willingness to “consider the opportunity for qualified attorneys who do not necessarily have a wealth of MDL leadership experience if it appears that such an attorney is capable and will make meaningful contributions to the conduct of this MDL with proper support from other lawyers in leadership.” *Id.*

The proposed leadership committee meets each criterion. The leadership applicants have deep respect for one another and a proven track record of working well together amongst themselves and with opposing counsel. The varied professional experience of the team members lends itself to consideration of the various perspectives that weigh on the decisions, strategies, and compromises that are inherent in a litigation of this scope and complexity. This proposal, if adopted by the Court, would be the first instance of a majority-female leadership slate in a tort where the plaintiffs are not predominantly women.¹

The slate's members have shown their commitment to leading this litigation effectively and efficiently, as detailed in the attached declarations. Examples include:

- establishing a working group devoted to Suboxone film cases and meeting regularly for months to develop pleadings, experts, and theories of liability and perform collective factual investigation;
- coordinating through a single attorney to facilitate early case management with defense counsel including establishing a service-waiver process and responding to defense requests for additional time to plead or move in response to complaints to avoid duplicative work;
- working cooperatively with defense and other plaintiffs' counsel to centralize these cases before this Court in what may be the first stipulated MDL since the § 1407 was enacted;
- devoting substantial time to communicating and sharing information with other attorneys planning to file cases to establish cooperation and efficiency across the litigation both before and after centralization;
- proposing to the defense initial orders to govern the MDL including a protective order, 502(d) order, ESI protocol, and direct-filing order; and

¹ On December 6, 2023, Judge Charles R. Breyer of the Northern District of California appointed a slate of 11 attorneys to lead the *In re Uber Technologies, Inc., Passenger Sexual Assault Litigation*, MDL No. 3084. Eight of those attorneys (73%) are women. Approximately 95% of the plaintiffs in those consolidated cases are female. Here, by contrast, the injured plaintiffs are split roughly equally by gender and 10 of the 18 proposed leaders (55%) are women.

- creating an American Association for Justice Litigation Group co-chaired by two of the proposed co-leads to share information with plaintiffs' counsel across the country who plan to file cases into this MDL.

These efforts are consistent with the guidance articulated in the Manual for Complex Litigation (Fourth), which encourages early collaboration amongst counsel: “the [appointment] order should also take into account the proposal of counsel and encourage continuing collaboration amongst counsel and the parties in the cases pending in different courts.” *Id.* at § 22.6 (2004). This is particularly true in product-liability cases that often involve numerous counsel and plaintiffs. *Id.*

As detailed in the attached declarations, all leadership applicants have attested to their willingness and ability to commit to the lengthy and time-consuming process of litigating this MDL. Those declarations also include counsel's and their respective firms' commitment to fund this litigation to ensure timely advancement. The attached résumés confirm the team's relevant professional qualifications including extensive experience in complex product-liability and personal-injury litigation as well as cases with a dental component. Ultimately, the proposed slate is well-suited to provide the professional and creative leadership that is indispensable to litigating this MDL and ensuring the efficiencies contemplated by 28 U.S.C. § 1407 and Fed. R. Civ. P. 1 obtain.

III. Proposed structure and leadership

The Manual for Complex Litigation anticipates a leadership structure that includes lead counsel, liaison counsel, and committees of counsel. *Id.* at § 10.221. The proposed slate includes four attorneys to serve as co-leads (including an attorney resident in the district to serve as Court Liaison), an executive committee of five

attorneys to advise and consult with co-lead counsel (including an attorney to serve as Liaison Counsel for non-PLC firms), and a steering committee of nine attorneys.

Consistent with the Duke Guidelines, the proposed slate of 18 is small enough to prosecute this case effectively, but large enough to devote the necessary time and resources to swiftly litigate and fund the case to a successful conclusion.

The undersigned propose the following leadership committee:

A. Proposed Co-Lead Counsel

Ashlie Case Sletvold (Court Liaison)
Erin K. Copeland
Timothy J. Becker
Trent B. Miracle

B. Proposed Executive Committee

Alyson Steele Beridon (Plaintiffs' Liaison)
C. Andrew Childers
Lee Floyd
Russell T. Abney
Layne Hilton

C. Proposed Steering Committee

Kristine Kraft
David P. Matthews
Sara Schramm
Meghan Connolly
N. John Bey
Sara Papantonio
Jessica Wiczorkiewicz
P. Davis Cooper
R. Stanley Gipe

IV. General summary of qualifications

The proposed slate's attorneys individually and collectively satisfy each of the criteria identified by the Court for leadership appointment and are well-qualified to lead this case. All have filed a case that has been or will be transferred to this MDL

or noticed an appearance here. Each of the proposed co-leads previously has been appointed to lead one or more MDLs and has extensive trial experience. Ms. Sletvold began her career defending manufacturers in products-liability cases. Ms. Copeland has devoted her career to personal-injury litigation in both mass-tort and single-event cases. Mr. Becker and Mr. Miracle have lengthy careers in products-liability MDLs including *In re Zimmer Knee Replacement*, *In re Testosterone Replacement Therapy*, and the opioid litigation.

The proposed executive committee likewise includes distinguished attorneys with prior MDL appointments. Ms. Beridon is a long-time practitioner in both products and consumer class-action litigation. Mr. Childers co-leads the NEC litigation and secured the largest dental-malpractice verdict in Georgia State history. Ms. Floyd was formerly a partner at Butler Snow where she represented manufacturers in products MDLs. Mr. Abney has an extended history of MDL appointments including substantial experience working with expert witnesses. And Ms. Hilton has extensive experience in antitrust class actions in the pharmaceutical context.

The proposed steering committee includes both established MDL practitioners and attorneys newer to this practice area. Ms. Kraft, Mr. Matthews, and Ms. Schramm all have prior MDL appointments and have served with distinction in their respective roles. This would be the first leadership appointment for Ms. Connolly, Mr. Bey, Ms. Papantonio, Ms. Wiczorkiewicz, Mr. Cooper, and Mr. Gipe. Ms. Connolly is a partner with the distinguished Cleveland firm of Lowe Scott Fisher and has a

successful track record in personal-injury and medical-malpractice litigation, including dental cases. Mr. Bey is an accomplished trial attorney and the incoming Vice President of the American Association for Justice. Ms. Papantonio, Ms. Wieczorkiewicz, and Mr. Cooper have spent their careers supporting partners in their firms appointed to leadership and are highly regarded by the members of this proposed slate with whom they have worked at length. Mr. Gipe is a board-certified trial attorney with a track record of considerable success. These are capable attorneys who will provide meaningful contributions to this effort with the proper support of their leadership colleagues who are eager to work with them.

Members of this proposed slate, along with personnel from their respective firms, have personal experience with those affected by substance-use disorders including opioid addiction. Proposed leadership attorneys have close friends and loved ones who have struggled with these conditions and have been prescribed the drug at issue. Undersigned counsel's commitment to vindicating their rights and securing justice for them cannot be questioned.

V. Conclusion

The proposed slate is comprised of the attorneys and firms representing Plaintiffs in the vast majority of the Suboxone film cases consolidated for pretrial proceedings before this Court. The attorneys possess the ability, financial resources, knowledge, and temperament to effectively, efficiently, and capably litigate these claims. Given the anticipated size of the litigation, the undersigned believe that the size of the slate is appropriate to provide a deep enough bench to effectively prosecute

Plaintiffs' claims while not running the risk of overstaffing. The undersigned respectfully request that the Court adopt the proposed slate.

Dated: February 27, 2024

Respectfully submitted,

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Proposed Steering Committee

CERTIFICATE OF SERVICE

Per Appendix B, ¶ 14 of the Northern District of Ohio's Electronic Filing Policies and Procedures Manual, the undersigned certifies that a copy of the foregoing was sent by email to the following counsel of record for the parties who have not yet filed their notice of appearance to receive electronic service notifications in this matter:

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