

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil (Consumer Protection)

STATE OF MINNESOTA, by its Attorney
General, Keith Ellison

File No. 62-cv-22-3970
Hon. Laura E. Nelson

Plaintiff,

vs.

ALLERGAN AESTHETICS, an AbbVie
Company, TEVA PHARMACEUTICAL
INDUSTRIES LTD., CVS CAREMARK,
WALGREENS, and WALMART INC.

Defendants.

INTERIM MOA BACKSTOP FUND ORDER (WAVE 2 SETTLEMENTS)

The above matter is before the undersigned Special Master¹ pursuant to the Amended Minnesota Opioids State-Subdivision Memorandum of Agreement (initially effective July 13, 2022) (MOA)² and a Consent Order entered in the captioned case (filed July 21, 2022). More specifically, the Special Master, Retired Judge Van de North, is

¹ The Special Master is the Hon. Jack Van de North, a retired Ramsey County District Court Judge. He was appointed by Minnesota Attorney General (OAG) Keith Ellison and former Hennepin County Attorney (HCAO) Micheal Freeman pursuant to the MOA in the spring of 2022. His duties are described at Section VI of the MOA and under a May 19, 2023 (as amended in 2025) Professional and Technical Services Contract with the OAG.

² The history and role of the MOA and related documents prescribing a framework for the payment of reasonable legal fees as part of the National Opioid litigation settlement are discussed in the Memorandum attached to this Order.

awarding legal fees to counsel who have properly applied for them (Fee Applicants) from the Backstop Fund created under the MOA and pursuant to guidance relating to the Fee Applications established by the Special Master. The Fee Applications at issue were submitted on or before October 29, 2025, and are available on the OAG's website.³ No comments regarding the Applications were submitted by any interested person or party. On December 12, 2025, the Special Master requested specific supplemental information from counsel for the Fee Applicants. Responsive letters were received on December 18, 2025, from counsel for Briol & Benson (and o/b/o Motley Rice) and for Lockridge Grindal Nauen (and o/b/o Gustafson Gluek). No objections to or comments on the December 18 letters were submitted by any party. Copies of the December 12 request and December 18 responses will be posted on the OAG website.

The Fee Applicants are counsel for Minnesota cities and counties who have litigated Opioid-related damage claims in a national mass action lawsuit. Settlement of this far-ranging national litigation has resolved claims against the captioned Defendants.⁴

Counsel appearing for the Fee Applicants are: Yvonne Flaherty and David Asp of Lockridge Grindal Nauen, PLLP; Scott Benson of Briol & Benson, PLLC and o/b/o Motley

³ <https://www.ag.state.mn.us/Opioids/Backstop/>

⁴ Previous Backstop Fund Fee Applications (relating to WAVE 1 Settlements) were addressed in the Final Order of the Special Master dated July 1, 2024. Settlements and related Fee Applications involving additional defendants in the National Opioid Litigation are anticipated in the future. Where appropriate under the MOA, 7% of distributions from those yet to be finalized settlements will be used to replenish the Backstop Fund. Applications for fees from the Fund associated with those settlement distributions will be addressed in future proceedings and Orders of the Special Master.

Rice; Seth Meyer of Keller Postman, LLC (f/k/a Keller Lenkner, LLC) and o/b/o Consovoy McCarthy, PLLC (f/k/a Consovoy McCarthy Park, PLLC) and Campbell Knutson, P.A.; and Charles Crueger of Crueger Dickinson, LLC and o/b/o Simmons Hanley Conroy, LLC; von Briesen & Roper, S.C.; Sieben Polk, P.A.; and Heley Duncan & Melander, PLLP.

In addition to counsel for the Fee Applicant law firms, Assistant Attorneys' General Eric Maloney and Evan Romanoff appeared for the State of Minnesota and Assistant Hennepin County Attorney Devona Wells appeared for Hennepin County. The Special Master also acknowledges the assistance of his colleague at the Larson • King law firm, Patrick O'Neill, III, in addressing the Wave 2 Backstop Fund Fee Applications.

Having carefully considered the fee Applications, the entire file; and, being fully advised, the Special Master enters the following **ORDER**:

1. BrownGreer⁵ will be directed (by a Final Order to be based on this Order and input from parties, if any) to distribute funds from the Minnesota Backstop Fund for the payment of attorney fees to the Fee Applicants.

2. Preliminary conclusions as to the distribution of the funds directed in Paragraph 1 are contained in the attached Memorandum which are all incorporated as

⁵ BrownGreer is a nationally recognized, multi-disciplinary firm specializing in the administration of class and mass action settlements. It was designated as the National settlement fund administrator by presiding Judge Polster in National Opioid litigation entitled: National Prescription Opiate Litigation, Case No. 170-MD-02804 (MDL). BrownGreer has created a database and computerized process pursuant to which settlement funds and legal fees are being distributed to parties and their lawyers throughout the United States. It has worked with counsel for the fee Applicants, the Special Master, the OAG and the HCAO to implement the MOA and Minnesota Backstop Fund.

part of this Order. In addition to the amount of the fee payments to counsel, the Memorandum will address compliance with the Fee Application Guidelines and the MOA.

3. Copies of this Order will be served by appropriate means on Fee Applicant counsel, OAG, and HCAO. The Fee Applications and this Order will be posted on the OAG website. The Order will also be filed with the Ramsey County District Court.

4. The December 31 deadline (found in the November 13 Amended Wave 2 Schedule) for comments or objections regarding the instant Order is hereby extended until January 15, 2026.

5. A Final Order will be served on counsel and filed with the District Court by an amended deadline of February 5, 2026. The Final Order⁶ shall also be posted on the OAG website.

IT IS SO ORDERED.

Dated: December 30, 2025

s/ John B. Van de North, Jr.
Hon. John B. Van de North, Jr. (Ret.)
Special Master

⁶ Additional information regarding the distribution of payments, payment schedule, and balance of the Backstop Fund will be incorporated in the Final Order.

MEMORANDUM

File No. 62-cv-22-3970

A. INTRODUCTION

This Memorandum provides the rationale for the Special Master's Interim Order to which it is attached. It does so by relying, in part, on key components of important documents which include Judge Polster's August 6, 2021, Order in the MDL, the MOA, Judge Nelson's Consent Order and prior Orders of the Special. This Memorandum also adopts a format similar to that used by the Special Master in the April 25, 2024, Interim Order regarding WAVE 1 settlements.

A history of the settlements of local unit of government claims in the National Opioid Litigation, including the establishment of the 15% cap on legal fees adopted herein, can be found at pages 5-9 of the April 25, 2024, WAVE 1 Interim Order. Readers are urged to review that analysis which can be accessed via the OAG website.⁷

As discussed in the April 25, 2024, Interim Order, the Backstop Fund was designed "to incentivize private attorneys to waive their right to enforce contingent fee agreements and instead apply to the National Attorney Fee Fund, with the goals of achieving greater subdivision participation and higher ultimate payouts to both states and local governments." [MOA at 9.] The very creation of the Backstop Fund reflects the expectations of the partes and counsel that the National Fee Fund alone would be

⁷ <https://www.ag.state.mn.us/Opioids/Backstop/>

insufficient to pay the 15% capped fees authorized in the National Opioid MDL. National Fee Fund awards are strictly constrained...using a mathematical formula that addresses the amount of funds available in the fund, specific provisions in waived contingent fee contracts and the timing of the fee applications. The formula is not designed to compensate counsel for risks associated with litigating cases involving complex and novel issues like those in the Opioid MDL. Similarly, the formula does not reward quality of effort and level of success by counsel...high in the present litigation. These are some of the differences in the design of the National Fee Fund and Backstop Fund fee award protocols that explain variations in the amount of fees sought and awarded in both the Wave 1 and Wave 2 settlements.

Per the MOA, the Backstop Fund is funded at a rate of 7% of settlement payments made by defendants. While these Backstop funding contributions reduce settlement payments, the 15% cap on contingent legal fees produces a net benefit for participating Minnesota local government units. Further, under the MOA, any balance in the Backstop Fund after all fee payments have been made must be refunded to participating local government units at the conclusion of the fee award process. [MOA at 11.] A surplus for distribution is currently anticipated.

To be eligible for payment from the Backstop Fund, the MOA requires that the Fee Applicants (1) repudiate contingent fee agreements with local government clients; (2) certify that their firms have already sought payment from the National Fee Fund; (3) have

been notified by the National Fund Panel to expect fee awards of less than 15% of amounts recovered for their clients; and (4) provide the Special Master with sufficient information to evaluate the reasonableness of the fee awards under Minn. R. Prof. Cond. 1.5. Some applications were more thorough than others. However, the Special Master has determined, as he did with Wave 1 applications, that counsel for all Fee Applicants have substantially and reasonably complied with the requirements of the Fee Application Guidelines and the MOA.

B. EXPLANATION OF DISTRIBUTIONS FROM THE BACKSTOP FUND IN RESPONSE TO THE PENDING FEE APPLICATIONS OF COUNSEL

The Wave 2 Fee Applicants are legal counsel for six Minnesota cities and twenty-four Minnesota counties. In total, the Fee Applicants are responsible for delivering \$103,300,381.19 in Wave 2 Settlements to their clients for use in combatting the opioid epidemic through prevention and cure programs in Minnesota. Distributions funded by the National Opioid MDL settlement to Minnesota cities and counties not directly involved in the litigation were a byproduct of the work done by the Fee Applicants on behalf of their clients.

The total amount of fees sought from the Backstop Fund by all Fee Applicants relating to Wave 2 settlements is \$8,874,727.36. The current Fund Balance exceeds \$4 million. Funds are projected to reach \$12,641,098.21 by the completion of settlement payments by defendants and fee awards to counsel under the agreed upon schedule in 2037.

Briol & Benson⁸

B&B represented the following Minnesota government entities: (1) Dakota County; (2) Hennepin County; (3) Itasca County; (4) McLeod County; (5) Meeker County; (6) the City of Minneapolis; (7) Roseau County; (8) St. Louis County; (9) Sibley County, and (10) Winona County. B&B agreed with each individual unit of government to receive a 25% share of any total recovery in the MDL lawsuit. B&B committed significant firm resources to litigating the claims and representing each client through years of investigation, legal research, pleading, discovery, motion practice, expert retention and identification, and settlement discussions. All told, B&B recovered \$60,514,633.86 on behalf of its ten clients. Its contingent fee agreement with its clients would have generated fees in excess of \$15 million. B&B's total fee claim, capped at 15% of the total recovery, amounts to \$9,077,195.07. Of that potential recovery, B&B is expected to receive \$3,721,411.06 from the National Fee Fund. B&B now seeks to recover \$5,355,784.01 from the Backstop Fund. In recognition of the significant and complex work performed by B&B on behalf of its ten clients, the Special Master grants B&B's request for attorney fees in full. This award amounts to 44% of the current Backstop Fund balance and projected balance through 2037.

⁸ Briol & Benson and Motley Rice submitted a joint Fee Application (collectively "B&B"). In total, dozens of attorneys and legal professionals at both law firms performed legal work on behalf of the ten Minnesota-based clients.

Lockridge Grindal Nauen⁹

LGN represented counties across Minnesota, including (1) Beltrami County; (2) Carlton County; (3) Carver County; (4) Douglas County; (5) Freeborn County; (6) Morrison County; (7) Mower County; (8) Olmsted County; (9) Ramsey County; (10) Steele County; (11) Waseca County; (12) Washington County; (13) Wright County; and (14) Minnesota Prairie County Alliance.¹⁰ LGN agreed with each of these local units of government to receive 25% of any final recovery from the MDL lawsuit. LGN acted as a “catalyst” to drive local governments to join the litigation, traveled across the state to discuss litigation strategy prior to suit, worked to devise the legal theories employed by both LGN and public attorneys representing the state, participated in the discovery process, and also played a primary role in negotiating the settlement and the creation of the Backstop Fund itself.

In total, LGN recovered \$28,798,772.01 for its clients. Its total fee claim, capped at 15% of the total recovery, amounts to \$4,319,815.80. Of that, LGN received \$1,759,424.38 from the National Fee Fund, approximately 6% of the possible 15% maximum they would be entitled to. LGN now seeks \$2,560,391.42 from the Backstop Fund. In recognition of

⁹ Lockridge Grindal Nauen and Gustafson Gluek submitted a joint Fee Application (collectively “LGN”). Five attorneys from each firm, including associates, partners, and senior counsel, performed work on behalf of the 13 clients.

¹⁰ Minnesota Prairie County Alliance is a community and health services organization serving the counties of Dodge, Steele, and Waseca. Minnesota Prairie County Alliance did not receive a direct award of damages from the settlements but will be responsible for administering many of the programs these counties employ to combat the opioid epidemic and its effects.

LGN's successful representation of its clients in the complex and historic MDL settlement, the Special Master grants LGN's request for attorney fees in full. This amount is still over \$2 million less than it would have been entitled to under its contingent fee contracts with its clients. This award amounts to 28.93% of the current Backstop Fund and projections.

Crueger Dickinson¹¹

Crueger Dickinson represented Anoka County in the MDL. Anoka is Minnesota's fourth most populous county with nearly 400,000 citizens. Crueger Dickinson contracted with Anoka County to receive 25% of the total proceeds awarded in the MDL in exchange for its legal services. Crueger Dickinson commenced suit on behalf of Anoka County on January 9, 2018, and represented its individual client through all phases of litigation, up to and including negotiation of the national settlement and the creation of the Backstop Fund. Crueger Dickinson recovered \$8,467,682.65 on behalf of Anoka County. Under the original contingent fee agreement, Crueger Dickinson would be entitled to \$2,116,920.66. Its total fee claim, capped at 15% of the total recovery, amounts to \$1,270,152.40. Of that, Crueger Dickinson received \$951,595.17 from the National Fee Fund, representing approximately 1/3 of the total fees sought. Crueger Dickinson now seeks \$318,557.23 from the Backstop Fund. In recognition of Crueger Dickinson's successful representation of Anoka County in the complex and historic MDL settlement, the Special Master grants

¹¹ Crueger Dickinson submitted a joint Fee Application, together with Simmons Hanly, Briesen Roper, Heley Duncan and Sieben Carey (collectively "Crueger Dickinson"). In total, 23 attorneys from the various firms worked on the claims brought on behalf of the city of Anoka.

Crueger Dickinson's request for attorney fees in full. The award also recognizes its leading role in assuring that all Minnesota counties benefitted from the MDL settlements. This award amounts to 6.3% of the current Backstop Fund and projections.

Keller Postman¹²

Keller Postman represented (1) City of Coon Rapids; (2) City of Duluth; (3) City of North St. Paul; (4) City of Proctor; (5) City of Rochester; (6) Pine County; and (7) Yellow Medicine County in the MDL. Keller Postman contracted with its various clients for a 33.3% share of any final recovery in exchange for its legal services. Keller Postman represented its seven clients from 2018 through final settlement and the creation of the Backstop Fund. Keller Postman agreed to waive its contingency fee contract and to receive less than half of the 33.3% recovery it contracted for. Keller Postman recovered \$5,519,292.67 on behalf of its seven clients. Its total fee claim, capped at 15% of the total recovery, amounts to \$1,839,580.25. Of that total, Keller Postman received \$187,899.20 from the National Fee Fund. Keller Postman now seeks to recover \$639,994.70 from the Backstop Fund. Keller Postman's waiver represents the most significant change in compensation, reducing its percentage recovery by almost 20%. In recognition of the degree of success Keller Postman achieved on behalf of its seven clients and the nature and complexity of the work involved in representing Keller Postman's seven clients, the Special Master grants Keller

¹² Keller Postman submitted a joint Fee Application along with Consovoy McCarthy and Campbell Knutson (collectively "Keller Postman"). All told, eight attorneys and legal professionals at the various firms assisted in the representation of the seven Minnesota clients.

Postman's fee request in its entirety. This award amounts to 3.21% of the total Backstop Fund and projections.

CONCLUSION

The capped and settlement-funded payment of fees in lieu of contingent fee contracts fairly compensate attorneys for their essential work in prosecuting the risky, complex, novel, and fiercely contested issues in the MDL. Judge Polster's approach in the MDL, adopted here, also complies with the legal requirement that any fees awarded be reasonable under all the applicable facts of the case.

As he has done previously, the Special Master again recognizes the excellent legal work of the Fee Applicants and the historic results obtained in the groundbreaking MDL litigation for their clients and for all Minnesotans.

J.B.V.