

From: [O'Neill III, Pat](#)
To: [Scott Benson](#); [Van de North, Jack](#); [Eric Maloney](#); [Mark Briol](#); [Jared Shepherd](#); [Shayna E. Sacks](#); [ekd@cruegerdickinson.com](#); [Yvonne M. Flaherty](#); [David W. Asp](#); [gpearson@fnlawfirm.com](#)
Cc: [Devona Wells](#); [Evan Romanoff](#); [Andrew Oxenreiter](#); [Roma Petkauskas](#); [Rachel Motley](#); [Zachary Bland](#); [John Raggio](#); [jack.vandenorth](#)
Subject: RE: Opioid Litigation Settlement / Backstop Fund Wave 2
Date: Monday, October 13, 2025 2:23:46 PM

Counsel:

Sent on Behalf Of Special Master Jack Van De North

Determination On Common Benefit Fund Issue

The Special Master has reviewed recent correspondence (and attached February and June 2024 Orders regarding Common Benefit Fund Fee Awards in the National Opiate Litigation/ MDL 2804) from the Minnesota AGO and the Briol Benson Law Firm. The correspondence relates to a dispute between these parties as to whether Briol Benson (and potentially other Wave 2 Fee Applicants) should provide national Common Benefit Fund Fee Award information as part of Wave 2 Backstop Fund Fee Award Applications. As he did in the Final MOA Backstop Fund Findings and Order dated June 27, 2024 regarding Wave 1 Backstop Fund Fee Awards, the Special Master again declines to require submission of Common Benefit Fund Fee Award information as part of Wave 2 Backstop Fund Fee Award Applications.

The January 2022 Minnesota MOA is clear. It provides that private attorneys "may seek payment from the Backstop Fund in the event that funds received by Counsel from the National Settlement Agreements' **Contingency Fee Fund** are insufficient to cover the amount that would be due to Counsel. Before seeking any payment from the Backstop Fund, private attorneys must certify that they first sought fees from the National Settlement Agreements' **Contingency Fee Fund** and must certify that they agreed to accept the maximum fees payments awarded to them. Nothing in this Section, or in the terms of this Agreement shall be construed as a waiver of fees, contractual or otherwise, with respect to fees that may be recovered under a contingency fee agreement or otherwise from other past or future settlement, verdicts, or recoveries related to the opioid litigation". MOA Section VI C (emphasis added). The MOA goes on to provide that "any attorney fees paid from the Backstop Fund, together with any compensation received from the National Settlement Agreements' **Contingency Fee Fund**, shall not exceed 15% of the total gross recovery of the Litigating Local Governments' share of funds from the National Settlement Agreements. To avoid doubt, in no instance will Counsel receive more than 15% of the amount paid to their respective Litigating Local Government client(s) when taking into account what private attorneys received from both the Backstop Fund and any fees received from the National Settlement Agreements' **Contingency Fee Fund**. MOA Section VI D (emphasis added).

The MOA directs the Special Master to focus exclusively on the capped contingent fee awards related to the representation of specific Minnesota-based clients. Requiring submission of information related to national Common Benefit Fund Fee Awards and consideration by the Special Master of fees awarded for work not directly tied to the specific Litigating Local Governments identified in the MOA, would be inconsistent with the MOA's unambiguous directive. When the language of a document is clear on its face, it is generally not appropriate to reach beyond the language itself to ascribe some different

meaning to it. There is no compelling reason to deviate from that general rule on the record in this case.

Submission of Wave 2 Applications

As set out in the schedule circulated on September 19, 2025, applications are now open for the Wave 2 Settlements. Attached are the application materials. Applications must be submitted by 4:30 PM on October 29, 2025. All applications will be made publicly available through the AG Website, at the link below. Please contact our office with any questions.

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

Patrick H. O'Neill, III

Attorney

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From: O'Neill III, Pat

Sent: Wednesday, October 8, 2025 3:32 PM

To: Scott Benson <scott@briollaw.com>; Van de North, Jack <jvandenorth@larsonking.com>; Eric Maloney <Eric.Maloney@ag.state.mn.us>; Mark Briol <mark@briollaw.com>; Jared Shepherd <jshepherd@ck-law.com>; Shayna E. Sacks <ssacks@napolilaw.com>; ekd@cruegerdickinson.com; Yvonne M. Flaherty <yvmflaherty@locklaw.com>; David W. Asp <dwasp@locklaw.com>; gpearson@fnlawfirm.com

Cc: Devona Wells <devona.wells@hennepin.us>; Evan Romanoff <Evan.Romanoff@ag.state.mn.us>; Andrew Oxenreiter <aoxenreiter@browngreer.com>; Roma Petkauskas <rpetkauskas@browngreer.com>; Rachel Motley <rmotley@browngreer.com>; Zachary Bland <zbland@ntrial.com>; John Raggio <jraggio@ntrial.com>; jack vandenorth <jackvandenorth@gmail.com>

Subject: RE: Opioid Litigation Settlement / Backstop Fund Wave 2

Counsel:

We've received two submissions regarding the process and have taken them under advisement.

No party has requested a conference with the Special Master contemplated in the Sept. 19 correspondence regarding the Wave 2 Process Schedule on these issues and we have determined that no conference is necessary.

If, on further review of the only submissions, a need for added information or clarification were deemed necessary, the Special Master will reach out to counsel for Briol Benson and the OAG with copies to counsel for all Fee Applicants and other participants.

Thank you.

Patrick H. O'Neill, III

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From: Scott Benson <scott@briollaw.com>

Sent: Tuesday, October 7, 2025 4:32 PM

To: Van de North, Jack <jvandenorth@larsonking.com>; Eric Maloney <Eric.Maloney@ag.state.mn.us>; O'Neill III, Pat <phoneill@larsonking.com>; Mark Briol <mark@briollaw.com>; Jared Shepherd <jshepherd@ck-law.com>; Shayna E. Sacks <ssacks@napolilaw.com>; ekd@cruegerdickinson.com; Yvonne M. Flaherty <yvflaherty@locklaw.com>; David W. Asp <dwasp@locklaw.com>; gpearson@fnlawfirm.com

Cc: devonna.wells@hennepin.us; Evan Romanoff <Evan.Romanoff@ag.state.mn.us>; Andrew Oxenreiter <aoxenreiter@browngreer.com>; Roma Petkauskas <rpetkauskas@browngreer.com>; Rachel Motley <rmotley@browngreer.com>; Zachary Bland <zbland@ntrial.com>; John Raggio <jraggio@ntrial.com>; jack vandenorth <jackvandenorth@gmail.com>

Subject: Re: Opioid Litigation Settlement / Backstop Fund Wave 2

CAUTION: This email originated outside of the organization.

Special Master Van de North,

Please see the attached correspondence in response to the letter from Deputy Attorney General James Canaday.

SCOTT A. BENSON

BRIOL & BENSON, PLLC

30 South 9th Street, 7th Floor | Minneapolis, MN 55402

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From: Eric Maloney <Eric.Maloney@ag.state.mn.us>

Sent: Wednesday, October 1, 2025 4:13 PM

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Subject: RE: Opioid Litigation Settlement / Backstop Fund Wave 2

On behalf of Deputy Attorney General James Canaday, please see the attached correspondence in response to Special Master Van de North's request for comments.

Sincerely,

Eric

Eric J. Maloney (he/him)

Assistant Attorney General | Consumer Protection Division

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From: O'Neill III, Pat <phoneill@larsonking.com>

Sent: Friday, September 19, 2025 1:55 PM

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Subject: Opioid Litigation Settlement / Backstop Fund Wave 2

SENT ON BEHALF OF SPECIAL MASTER JACK VAN DE NORTH

Good afternoon,

Please see the attached correspondence sent on behalf of Jack Van De North.

Contact our office with any questions.

Patrick H. O'Neill, III

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