

**BEFORE THE UNITED STATES JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**IN RE: CHILDREN BORN  
OPIOID-DEPENDENT**

**MDL - \_\_\_\_\_**

**MOTION FOR TRANSFER OF ACTIONS PURSUANT TO 28 U.S.C. § 1407 FOR  
COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS**

Plaintiffs<sup>1</sup> respectfully move that the Judicial Panel on Multidistrict Litigation (“Panel”), pursuant to 28 U.S.C. § 1407 and Rule 6.2 of the Rules of Procedure of the Panel, transfer the actions on behalf of children born opioid-dependent listed in the attached Schedule of Actions and subsequent tag-along actions to a separate MDL before the Southern District of West Virginia. Alternatively, Plaintiffs request transfer to the Southern District of Illinois. Transfer is appropriate for the following reasons:

1. Movants seek transfer and coordination or consolidation of all cases filed on behalf of opioid-dependent infants into a separate MDL for the reasons laid out in the *Doyle* plaintiffs’ recently filed Motion to Vacate CTO-47 (JPML 2804 Rec. Doc. 2398).<sup>2</sup> As discussed therein, the cases of the opioid-dependent infants are unique, and further, Movants have grave concerns that the due process rights of opioid-dependent infants are not being protected in MDL 2804 and that the interests of the governmental and corporate parties represented by the MDL leadership are fundamentally in conflict with those of these infants. The question now posed to the Panel, argued in the accompanying brief

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<sup>1</sup> Movants are: Deric Rees and Ceonda Rees, individually and as next friend and guardian of Baby T.W.B. on behalf of themselves and all others similarly situated (Illinois Class); Darren and Elena Flanagan, individually and as adoptive parents and next friends of Baby K.L.F., on behalf of themselves and all others similarly situated (Tennessee Class); Rachel Wood, individually and as next friend and adopted mother of Baby O.W., on behalf of themselves and all others similarly situated (Missouri Class); Melissa Ambrosio, individually and as next friend of Baby G.A., and on behalf of themselves and all others similarly situated (California Class); Shannon Hunt, individually and as next friend of Baby S.J., on behalf of themselves and all others similarly situated (Maryland Class); Bobbi Lou Moore on behalf of Baby R.R.C., and all other similarly situated (West Virginia Class); Walter and Virginia Salmons, individually and as the next friend or guardian of Minor W.D. and on behalf of all others similarly situated (National Class).

<sup>2</sup> All arguments in Motion to Vacate CTO-47 (JPML 2804 Rec. Doc. 2398) are adopted in support of this Motion.

in support of this Motion, is not whether these cases should be held outside of the MDL as presently structured (they must be), but whether they should be consolidated in a separate MDL.

2. Presently, there are substantially similar class action suits filed on behalf of opioid-dependent infants pending in the Southern District of West Virginia, the Southern District of Ohio, as well as eight cases currently caught up in MDL 2804 in the Northern District of Ohio. Undersigned counsel anticipates that several more substantially similar opioid-dependent infant class action suits will be filed across the country in the coming months.

3. The actions on behalf of the opioid-dependent infants assert substantially similar claims and seek substantially similar relief. These suits seek to establish a fund for medical monitoring, damages related to acute neonatal abstinence syndrome (NAS) treatment and long-term treatment of these innocent victims of the Opioid Crisis.

4. The convenience of the courts, witnesses, parties, and counsel will all be served by transfer of these cases to the Southern District of West Virginia, or in the alternative, the Southern District of Illinois.

5. Absent transfer, the opioid-dependent infants' unique interests will remain unprotected and these young victims risk losing the opportunity to achieve a productive adulthood.

6. In support of this Motion, Movants file:

- a. A Brief supporting their Motion;
- b. A numbered Schedule of Actions providing (i) the complete name of each action involved, listing the full name of each party included as such on the district court's docket sheet; (ii) the district court and division where each action is pending; (iii) the civil action number of each action; and, (iv) the name of the Judge assigned to each action;
- c. A copy of all complaints and docket sheets for all actions listed on the schedule;

- d. Statement Regarding Oral Argument; and,
- e. Proof of Service.

WHEREFORE, Movants respectfully request that the Panel grant their motion and transfer these cases, for coordinated and consolidated pre-trial proceedings, to the Southern District of West Virginia. Alternatively, Plaintiffs request transfer to the Southern District of Illinois.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of September, 2018, a true and correct copy of the foregoing has been electronically filed with the Clerk of Court using the CM/ECF system, which provides an electronic service notification to all counsel of record registered as CM/ECF users.

/s/Scott Bickford

Scott Bickford