

USET SPF Action Alert: Opioid Multi-District Litigation (MDL)/Tribal Amicus Brief September 20, 2018

Dear USET SPF Membership,

We are passing along this information to make sure that everyone is informed with the most current opioid litigation strategy information.

Litigation against opioid manufacturers and distributors has been brought by more than fifty Tribal Nations across Indian Country who allege that the fraudulent and unlawful actions of the defendants has led directly to the devastating opioid epidemic within Tribal communities.

These Tribal lawsuits, along with nearly one-thousand lawsuits brought by cities, counties and others, have been consolidated by the Judicial Panel on Multi-District Litigation (MDL) and have been assigned to Federal Judge Dan Polster in Cleveland, Ohio for pretrial management. Judge Polster has established a separate "Tribal Nation Track" at the MDL in recognition that Tribal Nations are sovereign and, therefore, claims brought by Tribal Nations are different than those brought by cities and counties.

So far, fifty Tribal Nations are participants on the Tribal Nation Track, including the Tribal "bell weather" or test cases. The Tribal bell weather cases include the Muscogee Creek Nation and the Blackfeet Tribe, who filed Amended Complaints in early August. The next step in these bell weather cases will be for the defendants to file Motions to Dismiss challenging these Amended Complaints.

Judge Polster has ordered that interested Tribal Nations join in a single Amicus Brief in support of the test cases brought by Muscogee Creek Nation and Blackfeet Tribe as part of the Motion to Dismiss process, including Tribal Nations that have filed opioid cases and those that have not. Tribal organizations may also submit statements to be included in the Amicus Brief and USET SPF will be signing on to the brief.

A draft of the Tribal Opioid Litigation Amicus Brief is expected to be available next week. If you are interested in joining the Amicus, you need to submit your Statement of Interest by **Friday, September 21**. The Amicus Brief is due **Friday, October 5**. Tribal Nation sign on and statements will help to demonstrate the impact that the opioid epidemic is having in our communities. Statements of Interest can be sent to Jane Joseph (jjoseph@skikos.com) and Tim Purdon (TPurdon@RobinsKaplan.com).

Instructions for Amicus Brief Sign on and Submission of Statement of Interest

Tribal Nations and Tribal organizations can join the Amicus Brief by submitting a Statements of Interest. The Statements are restricted to 300 words and a 3-paragraph structure is recommended:

1. Background of the Tribal Nation;
2. Impact the opioid epidemic has had on the Tribal Nation; and
3. How the Tribal Nation is addressing the crisis.

For reference, we have [attached](#) an exemplar Statement for the Port Gamble S'Klallam Tribe that has been shared with us, drafted by the Hobbs Straus firm.