

# PHIPPS ORTIZ TALAFUSE PLLC

November 16, 2021

Via eMail

K. Sunshine Stanek  
Lubbock County District Attorney  
904 Broadway Street, 2<sup>nd</sup> Floor  
Lubbock, Texas 79408  
[kstanek@lubbockcda.com](mailto:kstanek@lubbockcda.com)

R. Neal Burt  
Civil Division Chief  
P.O. Box 10536  
Lubbock, Texas 79408  
[nburt@lubbockcda.com](mailto:nburt@lubbockcda.com)

Hon. Judge Curtis Parrish  
Lubbock County Judge  
904 Broadway, Ste 101  
Lubbock, Texas 79401  
[cparrish@lubbockcounty.gov](mailto:cparrish@lubbockcounty.gov)

Hon. Terrence Kovar  
Commissioners Court, Precinct 1  
904 Broadway, Ste 101  
Lubbock, Texas 79401  
[tkovar@lubbockcounty.gov](mailto:tkovar@lubbockcounty.gov)

Hon. Jason Corley  
Commissioners Court, Precinct 2  
904 Broadway, Ste 101  
Lubbock, Texas 79401  
[jecorley@lubbockcounty.gov](mailto:jecorley@lubbockcounty.gov)

Hon. Gilbert A. Flores  
Commissioners Court, Precinct 3  
904 Broadway, Ste 101  
Lubbock, Texas 79401  
[gflores@lubbockcounty.gov](mailto:gflores@lubbockcounty.gov)

Hon. Chad Seay  
Commissioners Court, Precinct 4  
904 Broadway, Ste 101  
Lubbock, Texas 79401  
[cseay@lubbockcounty.gov](mailto:cseay@lubbockcounty.gov)

**CONFIDENTIAL SETTLEMENT COMMUNICATION  
ATTORNEY-CLIENT PRIVILEGED**

Re: **Texas J&J Settlement Agreement, Offer to Lubbock County;** *County of Lubbock v. Allergan USA, Inc.*, Trial Cause No. 2019537688, in the 237<sup>th</sup> Judicial District Court, Lubbock County, Texas (Harris County MDL Pretrial Cause No. 2020-16529).

Dear Judge, Commissioners, District Attorney and Civil Chief:

As you may be aware, Johnson & Johnson and Janssen Pharmaceuticals, Inc. ("J&J") recently entered into a Texas-specific settlement that is materially different than the previously circulated proposed national J&J settlement agreement. *See* attached Texas J&J Agreement.

We are recommending that our clients take the Texas J&J Agreement for several reasons:

*First*, the Texas J&J Agreement provides for full payment *this* year, which is materially different than the national settlement which provides for payments spread out over 9 years. That

November 16, 2021

Page 2 of 3

means Lubbock County will receive a direct payment for the full amount owed under the J&J Agreement—a total payment of **\$363,256**—on or immediately after December 31, 2021.

*Second*, unlike the proposed national settlement, the Texas J&J Agreement is not subject to any offsets or reductions and is afforded protections from bankruptcy.

*Third*, Lubbock County gets to decide how and where the settlement money should be spent. There are no restrictions on Lubbock County's use of direct payment funds.

*Fourth*, in addition to the direct payment, Lubbock County will be able to apply to a regional opioid abatement fund for additional support for local opioid remediation and treatment programs.

*Fifth*, our contractual contingency fees do not come out of Lubbock County's recovery from the Texas J&J Agreement. Under the Texas J&J Agreement, we are required to waive our contractual attorney's fees and apply to a separate fund overseen by the Texas MDL Court in Harris County.

### **How to Participate in the Texas J&J Settlement Agreement**

Because the Texas J&J Agreement is administered by a Texas Court, there are certain forms that Lubbock County will need to sign off on to participate in the J&J settlement, specifically:

1. Order Authorizing Approval of J&J Settlement; and
2. Political Subdivision Election and Release Form.

We have attached a Release and a proposed draft Order (which you may revise as you see fit) for the Commissioner Court's approval.

We ask for your help in getting these signed forms back to us as soon as possible, on or before **Monday, November 30, 2021**. We understand this may be difficult, particularly around the Thanksgiving holiday. Please let us know if this matter cannot be brought before the Commissioners Court before the end of the month, and we will inform the necessary parties that we require additional time to obtain the required written consent and approval.

### **This Agreement Will Resolve Lubbock County's Claims Against J&J Only**

The County's acceptance of the Texas J&J Agreement will not affect its claims against any other defendant. Lubbock County's lawsuit against other opioid manufacturers and distributors remains pending in the 152d District Court of Harris County, Texas (*In Re: Texas Opioid Litigation*, MDL No. 2018-63587).

The attached forms only concern the J&J Agreement. The details of the Distributor settlement agreement have not been finalized and talks are ongoing. For these reasons, we are unable to make a recommendation as to the proposed Distributor agreement at this time.

November 16, 2021

Page 3 of 3

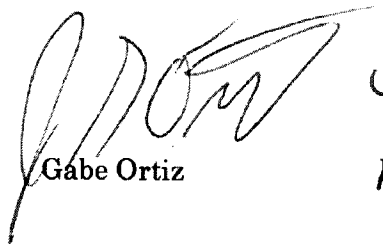
Lastly, we understand that the State Attorney General's Office may reach out to you directly about the settlement. We ask that you continue to forward any settlement communications to our office.

Should you have any questions about the attached documents or the settlement generally, we are more than happy to get on a call or schedule a Zoom to discuss in greater detail.

Very Truly Yours,



Martin J. Phipps



Gabe Ortiz



Meagan Talafuse

Attachments:

J&J/Janssen Texas Settlement Agreement;  
Order Authorizing Approval of J&J Settlement; and  
Political Subdivision Election and Release Form.