



Office of the United States Trustee  
Southern District of New York

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October 6, 2021

Via Electronic Court Filing

The Honorable Colleen McMahon  
United States District Court  
for the Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *The State of Washington v. Purdue Pharma L.P.*, No. 7:21-cv-07532-CM (S.D.N.Y.); *The District of Columbia v. Purdue Pharma L.P.*, No. 7:21-cv-07585-CM (S.D.N.Y.); *The City of Grand Prairie as Representative Plaintiff for a Class Consisting of All Canadian Municipalities, the Cities of Brantford, Grand Prairie, Lethbridge, and Wetaskiwin v. Purdue Pharma L.P.*, No. 7:21-cv-07961-CM (S.D.N.Y.); *Certain Canadian First Nations Creditors Peter Ballantyne Cree Nation on Behalf of All Canadian First Nations and Metis People Lac La Ronge Indian Band v. Purdue Pharma L.P.*, No. 7:21-cv-07962-CM (S.D.N.Y.); *William K. Harrington, United States Trustee v. Purdue Pharma L.P.*, No. 7:21-cv-07966-CM (S.D.N.Y.); *William K. Harrington, United States Trustee v. Purdue Pharma L.P.*, No. 7:21-cv-07969-CM (S.D.N.Y.); *The State of Maryland v. Purdue Pharma L.P.*, No. 7:21-cv-08034-CM (S.D.N.Y.); *The State of Connecticut v. Purdue Pharma L.P.*, No. 7:21-cv-08042-CM (S.D.N.Y.); *Ronald Bass Sr. v. Purdue Pharma L.P.*, No. 7:21-cv-08049-CM (S.D.N.Y.); *The State of California and the People of the State of California, by and through Attorney General Rob Bonta v. Purdue Pharma L.P.*, No. 7:21-cv-08055-CM (S.D.N.Y.); *The State of Delaware v. Purdue Pharma L.P.*, No. 7:21-cv-08139-CM (S.D.N.Y.).

Dear Hon. Judge McMahon,

William K. Harrington, the United States Trustee for Region 2, the appellant in *William K. Harrington, United States Trustee v. Purdue Pharma L.P.*, No. 7:21-cv-07966 (S.D.N.Y.) and *William K. Harrington, United States Trustee v. Purdue Pharma L.P.*, No. 7:21-cv-07969 (S.D.N.Y.) responds to: (1) a letter addressed to Judge Roman dated September 30, 2021, from counsel for the Official Committee of Unsecured Creditors of Purdue Pharma L.P., et al. ("UCC") and (2) a letter addressed to this Court dated October 6, 2021, from counsel for the Ad Hoc

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Committee of Governmental and Other Contingent Litigation Claimants (“Ad Hoc Committee”), both of which were filed in the referenced appeals.

The United States Trustee did not list them as appellees because he concluded they are not. Nonetheless, their letters purport to “advise the Court and all parties” of the UCC’s and the Ad Hoc Committee’s intent to participate as appellees in these appeals. Neither the UCC nor the Ad Hoc Committee was a proponent of the chapter 11 reorganization plan now on appeal, and as Bankruptcy Judge Drain has noted, neither is a party to these appeals. *See In re Purdue Pharma L.P.*, Bk. Case No. 19-23649-rdd, ECF Doc. No. 3790, Transcript of September 13, 2021 Hearing, at 34:12-13 (Statement of Judge Drain that “[the Debtors] are the only appellees on the appeal given that they are the only proponents of the plan.”). And unlike the Sackler parties that the United States Trustee identified as appellees, neither the UCC nor the Ad Hoc Committee is a party to the settlement agreement that will provide for the payment of funds to the Master Disbursement Trust under the Plan.<sup>1</sup> *See* ECF No. 3711, p. 43. The UCC and the Ad Hoc Committee nonetheless have filed notices of appearance in these appeals and have requested to be added to the dockets as appellees.<sup>2</sup>

Counsel for Purdue Pharma L.P., the debtors and appellees herein, has relayed the Court’s desire that parties refrain from corresponding until the Court “starts the conversation.” The United States Trustee is filing this responsive letter at this time, however, because this is an important threshold issue that must be addressed as a preliminary matter and the government’s interests will be prejudiced if the procedurally improper letters and notices of appearances discussed herein are left unanswered. For that reason, we respectfully ask the Court to consider this letter.

The United States Trustee objects to these attempts by the UCC and the Ad Hoc Committee to intervene in these appeals merely by providing notice. If they wish to intervene, the UCC and the Ad Hoc Committee must comply with Fed. R. Bankr. P. 8013(g), which provides that “[u]nless a statute provides otherwise, an entity that seeks to intervene in an appeal pending in the district court . . . must move for leave to intervene.” The rule requires the movant to provide specific information, including an explanation of why participation as an amicus curiae would not be adequate. *Id.*; *see* Fed. R. Bank. P. 8017 (governing briefs of amicus curiae).

The letters submitted by the UCC and the Ad Hoc Committee do not satisfy their responsibilities under Bankruptcy Rule 8013(g) by not seeking leave to intervene if they believe themselves to be appellees. And they do not provide the information they must under the rule.

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<sup>1</sup> Pharmaceutical Research Associates L.P. (“PRA L.P.”) is also a party to the Shareholder Settlement Agreement for limited purposes. Due to PRA L.P.’s limited role, the United States Trustee did not name it as an appellee.

<sup>2</sup> The appeal brought by the State of Delaware, Case No. 7:21-cv-08139-CM (S.D.N.Y.) is referenced in the letter filed by the Ad Hoc Committee, but it is not referenced in the letter filed by the UCC. As of this filing, the UCC has not filed a notice of appearance in the State of Delaware’s appeal and does not appear on the docket of that appeal.

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They also fail to comply with this Court's local rules and the Individual Practices and Procedures [of] Chief Judge Colleen McMahon.

Further, the Ad Hoc Group of Individual Victims of Purdue Pharma, L.P. has filed notices of appearance in these appeals and is listed as an intervenor on the dockets. Like the UCC and the Ad Hoc Committee, the Ad Hoc Group of Individual Victims of Purdue Pharma, L.P. has not complied with Rule 8013(g) by moving to intervene. The United States Trustee also objects to this group's procedurally inappropriate notices of appearance for the reasons stated above. They should comply with Bankruptcy Rule 8013 too.

As Bankruptcy Rule 8013(g) notes, these parties could seek leave under Bankruptcy Rule 8017 to file amicus briefs simultaneously with the appellees' response briefs should they elect to support appellees' legal arguments. The United States Trustee would not object to such motions. But these amici, like any amicus, would need to comply with the rules governing amicus briefs, including the prohibition against advancing arguments not made by the actual appellees in the case.

Should these non-parties elect to file a motion to intervene, the United States Trustee will carefully consider their motions and object if that is appropriate.<sup>3</sup>

Very truly yours,

WILLIAM K. HARRINGTON  
UNITED STATES TRUSTEE

/s/ Andrew D. Velez-Rivera  
Andrew D. Velez-Rivera  
Trial Attorney

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<sup>3</sup> If the referenced appeals are consolidated and these non-parties wish to participate, they should be required to seek permission to act as amicus curiae or file motions to intervene in each of the consolidated appeals.