

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-rdd

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5 In the Matter of:

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7 PURDUE PHARMA L.P.,

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9 Debtor.

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11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 December 15, 2020

17 10:02 AM

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21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ART

1 HEARING re Motion to Extend Exclusivity Period for Filing a
2 Chapter 11 Plan and Disclosure Statement/ Motion of Debtors
3 for Entry of a Third Order Extending the Exclusive Periods
4 Within Which to File a Chapter 11 Plan and Solicit
5 Acceptances Thereto (ECF #2045)

6
7 HEARING re Letter re: Motion of Debtors for Entry of a Third
8 Order Extending the Exclusive Periods Within Which to File a
9 Chapter 11 Plan and Solicit Acceptances Thereto filed by
10 PROP, Executive Director, Mr. Kolodny (related
11 document(s)2045) Filed by Andrew Kolodny (ECF #2056)

12
13 HEARING re Statement in Support of Debtors' Motion to Extend
14 Exclusivity Periods (related document(s}2045} filed by Paul
15 A. Rachmuth on behalf of Ad Hoc Committee on Accountability
16 (ECF #2099)

17
18 HEARING re Letter re: Letter ie: Motion of Deb rs or Entry
19 of a Third Order Extending the Exclusive Periods Within
20 Which to File a Chapter 11 Plan and Solicit Acceptances
21 Thereto (related document(s}2056, 2045) (ECF #2106)

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1 HEARING re Letter re: Motion of Debtors for Entry of a Third
2 Order Extending the Exclusive Periods Within Which to File a
3 Chapter 11 Plan and Solicit Acceptances Thereto (related
4 document(s)2056, 2045) (ECF #2108)

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6 HEARING re Third Interim Fee Application of KPMG LLP as Tax
7 Consultant to the Debtors and the Official Committee of
8 Unsecured Creditors for Allowance of Compensation for
9 Services Rendered and Reimbursement of Expenses for the
10 Period : 6/1/2020 to 9/30/2020, fee:\$650638.50, expenses:
11 \$0.00. filed by KPMG LLP (ECF #1921)

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13 HEARING re Third Application for Interim Professional
14 Compensation for Arnold & Porter Kaye Scholer LLP, Debtor's
15 Attorney, period: 6/1/2020 to 9/30/2020, fee: \$456,899.19,
16 expenses: \$275.00. filed by Arnold & Porter Kaye Scholer
17 LLP. (ECF #1941)

18

19 HEARING re Third Interim Fee Application Of Skadden, Arps,
20 Slate, Meagher & Flom LLP For Compensation For Services
21 Rendered And Reimbursement Of Expenses As Special Counsel To
22 The Debtors For The Period: 6/1/2020 to 9/30/2020,
23 fee:\$7,384,885.33, expenses: \$2,974.45. filed by Skadden,
24 Arps, Slate, Meagher & Flom LLP. (ECF #1945)

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1 HEARING re Third Interim Fee Application of Dechert LLP, as
2 327(e) Special Counsel, for Compensation for Professional
3 Services Rendered and Reimbursement of Actual and Necessary
4 Expenses Incurred During the Period: 6/1/2020 to 9/30/2020,
5 fee:\$3,706,616.10, expenses: \$612,547.92. filed by Dechert
6 LLP. (ECF #1959)

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8 HEARING re Third Interim Fee Application of King & Spalding
9 LLP for Compensation for Services Rendered and Reimbursement
10 of Expenses Incurred as Special Counsel to the Debtors and
11 Debtors in Possession for the Period: 6/1/2020 to 9/30/2020,
12 fee:\$6,959,667.27, expenses: \$133.1 0.(related
13 document(s)543) filed by KING & SPALDING LLP. (ECF #1965)

14

15 HEARING re Jones Day's Third Interim Application For
16 Allowance of Compensation For Services Rendered and
17 Reimbursement of Actual and Necessary Expenses Incurred
18 During Retention Period: 6/1/2020 to 9/30/2020,
19 fee:\$640,809.81, expenses: \$10,725.56 (ECF #30)

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21 HEARING re Third Application for Interim Professional
22 Compensation for Wilmer Cutler Pickering Hale and Dorr LLP,
23 Debtor's Attorney, period: 6/1/2020 to 9/30/2020,
24 fee:\$50,256.67, expenses: \$244.56. filed by George W.
25 Shuster Jr. (ECF #1969)

1 HEARING re Third Interim Fee Application of PJT Partners LP
2 as Investment Banker to the Debtors and Debtors-In-
3 Possession for Allowance of Compensation for Services
4 Rendered and for the Reimbursement of All Actual and
5 Necessary Expenses Incurred for the Period: 6/1/2020 to
6 9/30/2020, fee:\$900,000.00, expenses: \$2,015.31 (ECF #1971)

7
8 HEARING re Third Interim Fee Application for the Period June
9 1, 2020 through September 30, 2020 for Allowance of
10 Compensation for Services Rendered and for Reimbursement of
11 Expenses Incurred as Financial Advisor to the Chapter 11
12 Debtors period: 6/1/2020 to 9/30/2020, fee:\$3,969,661.00,
13 expenses: \$659.36 (ECF #1977)

14
15 HEARING re Third Interim Fee Statement of Ernst & Young LLP
16 for Compensation and Reimbursement of Expenses Incurred as
17 Auditors and Providers for the Debtors for the Period:
18 6/1/2020 to 9/30/2020, fee:\$93,500.00, expenses: \$600.00
19 (ECF #1980)

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21 HEARING re Second Interim Application of Cornerstone
22 Research for Compensation for Services Rendered and
23 Reimbursement of Expenses Incurred as Consultant to the
24 Debtors for the Period: 6/1/2020 to 9/30/2020,
25 fee:\$1,474,818.00, expenses: \$591.47 (ECF #1986)

1 HEARING re Third Interim Application of Davis Polk &
2 Wardwell LLP for Compensation for Services Rendered and
3 Reimbursement of Expenses Incurred as Counsel to the Debtors
4 and Debtors in Possession for the Period: 6/1/2020 to
5 9/30/2020, fee:\$38,809,735.00, expenses: \$153,971.26
6 (ECF #1994)

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8 HEARING re Second Interim Fee Application of Bedell Cristin
9 Jersey Partnership as Special Foreign Counsel to the
10 Official Committee of Unsecured Creditors of Purdue Pharma
11 LP., et al., for Allowance of Compensation for Services
12 Rendered and Reimbursement for Expenses for the Period:
13 6/1/2020 to 9/30/2020, fee:\$187,054.04, expenses: \$1,340.70
14 (ECF #1976)

15
16 HEARING re Second Interim Fee Application of Cole Schotz
17 P.C. as Co-Counsel to the Official Committee of Unsecured
18 Creditors of Purdue Pharma LP., et al., for Allowance of
19 Compensation for Services Rendered and Reimbursement of
20 Expenses for the Period: 6/1/2020 to 9/30/2020,
21 fee:\$7,763,784.50, expenses: \$292.14 (ECF #1978)

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1 HEARING re Third Interim Application of Jefferies LLC for
2 Allowance of Compensation for Services Rendered and
3 Reimbursement of Expenses Incurred as Investment Banker for
4 the Official Committee of Unsecured Creditors for the
5 Period: 6/1/2020 to 9/30/2020, fee:\$900,000.00, expenses:
6 \$34,850.00 (ECF #1979)

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8 HEARING re Third Interim Fee Application of Kurtzman Carson
9 Consultants LLC as Information Agent to the Official
10 Committee of Unsecured Creditors for Allowance of
11 Compensation for Professional Services Rendered and for
12 Reimbursement of Actual and Necessary Expenses Incurred,
13 period: 6/1/2020 to 9/30/2020, fee: \$245,204.44, expenses:
14 \$23,155.05 (ECF #1981)

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16 HEARING re Third Interim Application of Province, Inc.,
17 Financial Advisor to the Official Committee of Unsecured
18 Creditors of Purdue Pharma LP., et al., for Compensation and
19 Reimbursement of Expenses for the Interim Period: 6/1/2020
20 to 9/30/2020, fee:\$5,797,712.00, expenses: \$7,328.61
21 (ECF #1982)

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1 HEARING re Third Interim Fee Application of Akin Gump
2 Strauss Hauer & Feld LLP as Counsel to the Official
3 Committee of Unsecured Creditors of Purdue Pharma L.P., et
4 al, for Allowance of Compensation for Services Rendered and
5 Reimbursement of Expenses Incurred for the Period: 6/1/2020
6 to 9/30/2020, fee:\$22,112,857.5, expenses: \$1,358,212.79
7 (ECF #1983)

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9 HEARING re Application for Final Professional Compensation I
10 Final Fee Application of Bayard, P.A. for Compensation for
11 Services Rendered and Reimbursement of Expenses as Co-
12 Counsel to the Official Committee of Unsecured Creditors for
13 the Period from September 29, 2019 Through and Including
14 July 15, 2020 for Bayard, P.A., Creditor Comm. Atty, period:
15 9/29/2019 to 7/15/2020, fee:\$1, 182,574.50, expenses:
16 \$8,304.38. filed by Bayard, P.A. (ECF #1984)

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18 HEARING re Third Interim Fee Application of Brown Rudnick
19 LLP as Co-Counsel to the Ad Hoc Committee of Governmental
20 and Other Contingent Litigation Claimants for Services and
21 Reimbursement of Expenses Incurred for the Period: 6/1/2020
22 to 9/30/2020, fee:\$568, 187.50, expenses: \$19,156.20
23 (ECF #1973)

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1 HEARING re Application of Otterbourg P.C. as Co-Counsel to
2 the Ad Hoc Committee of Governmental and Other Contingent
3 Claimants for Third Interim Allowance of Compensation for
4 Services Rendered and Reimbursement of Expenses Incurred
5 period: 6/1/2020 to 9/30/2020, fee:\$682,293.50, expenses:
6 \$2,091.13 (ECF #1990)

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8 HEARING re Third Interim Fee Application of FTI Consulting,
9 Inc. for Compensation Earned and Expenses Incurred for the
10 Period f: 6/1/2020 to 9/30/2020, fee:\$1,440,572.15,
11 expenses: \$205.15 (ECF #1988)

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13 HEARING re Third Interim Application of Gilbert LLP, for
14 Allowance of Compensation for Services Rendered and
15 Reimbursement of Expenses Incurred as Co-Counsel to the Ad
16 Hoc Committee of Governmental and Other Contingent
17 Litigation Claimants for the Period: 6/1/2020 to 9/30/2020,
18 fee:\$1,062,892.00, expenses: \$9,305.17 (ECF #1989)

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1 HEARING re Third Interim Application of Kramer Levin
2 Naftalis & Frankel LLP, as Co-Counsel to the Ad Hoc
3 Committee of Governmental and Other Contingent Litigation
4 Claimants, for Allowance of Compensation for Professional
5 Services Rendered and for Reimbursement of Actual and
6 Necessary Expenses Incurred for the Period : 6/1/2020 to
7 9/30/2020, fee:\$1,698,836.50, expenses: \$69,971.34
8 (ECF #1996)

9
10 HEARING re First Interim Application of Houlihan Lokey
11 Capital Inc., Investment Banker and Co-Financial Advisor to
12 the Ad Hoc Committee, for Compensation and Reimbursement of
13 Expenses for the Period January 1, 2020 through May 31, 2020
14 (ECF #1778 and ECF #1991)

15
16 HEARING re Second Interim Application of Bielli & Klauder,
17 LLC for Compensation for Services Rendered and Reimbursement
18 of Expenses Incurred as Counsel to the Fee Examiner, David
19 M. Klauder, Esquire, for the Period: 6/1/2020 to 9/30/2020,
20 fee: \$220,000.00, expenses:\$ (ECF #1964)

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22 HEARING re Motion to Authorize /Debtors Motion to Supplement
23 Order Authorizing the Debtors to Assume the Reimbursement
24 Agreement and Pay the Fees and Expenses of the Ad Hoc
25 Committees Professionals (ECF #2030)

1 HEARING re Ecke's Motion to Authorize Claim Payment
2 (ECF #2032)

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Transcribed by: Sonya Ledanski Hyde

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A P P E A R A N C E S :

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P R O C E E D I N G S

THE COURT: Good morning. This is Judge Drain.
We're here for the omnibus monthly calendar in Purdue
Pharma, LP. This hearing is completely telephonic.

MAN 1: Good morning

THE COURT: -- addition to, announcing yourself
and your client the first time you speak, probably do so
again, at least announce yourself, that is, if you speak
later so that the court reporter can put together your voice
with your name.

There's one authorized recording of this hearing.
It's being taken by Court Solutions. They provide a copy to
our clerk's office on a daily basis. If you want a
transcript of today's hearing, you should contact our
clerk's office to arrange for the preparation of one.

Because today's calendar is completely telephonic,
you should keep your phone on mute unless you're speaking,
at which time, of course, you should unmute yourself.

So, with that introduction, I have the amended
agenda for today's hearing submitted by the Debtors'
counsel, and I'm happy to go down that agenda unless someone
wants to take something out of order or raise some other
issue or make a report at the beginning of the hearing.

MR. HUEBNER: Sure, Your Honor. Good morning. It
is Marshall Huebner of Davis, Polk, and Wardwell, LP, on

1 behalf of the Debtors. Can the Court hear me clearly?

2 THE COURT: Yes, I can hear you fine. Thanks.

3 MR. HUEBNER: Terrific. So, Your Honor, we really
4 don't have a kind of introductory remarks. I think that I'm
5 actually prepared to just begin and march down the agenda.
6 I guess the only late-breaking development is that there was
7 one item originally on for today that was adjourned to the
8 22nd, which relates to an unsealing motion by an entity
9 representing the media.

10 I believe, watching emails flying around including
11 actually in the last four minutes, that that looks like it
12 is resolved and that the parties hopefully will be filing a
13 stipulation as early as alter today that provides for a
14 process under which I think the Debtors are going through
15 documents and putting them into the public domain or giving
16 them out to these parties, and then if there's disagreement
17 about things that we believe need to remain protected by the
18 protective order, it sets up a mechanic.

19 But I think that the motion itself is going to be
20 resolved by a stipulation, which I think is great news
21 taking another item off of next week's docket, and again,
22 hopefully again, making yet more documents available to the
23 public on a more accelerated basis.

24 So not on today's agenda, but we all can use a
25 little good news in these dark times, especially the Court,

1 with a hearing that you graciously gave us three days before
2 the Christmas holiday or two days before Christmas Eve, so
3 that agenda looks like it is narrowing as well.

4 THE COURT: Okay. I was hoping the extra week
5 might lead to a resolution of that.

6 MR. HUEBNER: Yep. People have been working --
7 their emails have been flying by, really, at all hours for
8 days and days. People, I think, have been working quite
9 hard on it and it looks like it has borne a hoped-for fruit.

10 With respect to exclusivity, Your Honor, I guess
11 let me just begin the march. I really don't have a lot to
12 say on this, either, for reasons I think will be clear in a
13 minute.

14 Your Honor, as we set forth in the motion, we
15 could've asked for a longer period, and in fact, probably
16 many might have, because we do have until March 15th as a
17 matter of statute, but we chose, intentionally, not to do
18 that because we think that is not the right date and we
19 actually think that, as you have heard us say at hearing
20 after hearing, and as the Court, I think, has actually
21 echoed at several hearings, especially, most pointedly, at
22 the last two, time is really not anyone's friend here, for
23 the reasons I elaborated on before, and I'm not going to
24 elaborate on this morning.

25 With respect to the extension that we did,

1 ultimately, ask for, February 15th for filing and May 17th
2 for completing solicitation, we did engage in our normal
3 collaborative process and we called around to the key
4 stakeholders and we explained our approach to everybody, the
5 fruit of that, yet again, is that we are here yet again at
6 an utterly uncontested omnibus hearing, which really
7 shouldn't be taken for granted in any case, and in this
8 case, probably more than almost any ever, I never take for
9 granted.

10 So, we think those dates are appropriate, Your
11 Honor, and let me explain, just for a minute, why. March
12 15th is obviously just way, way too far away and the Debtors
13 are actually not willing to wait until March or, frankly,
14 even February, and not file a plan. We have been at this.
15 Today is literally the 15-month anniversary of this case,
16 and the time is now.

17 I wish that we had a report today with regards to
18 phase two of mediation. Your Honor obviously abjured all of
19 us in the strongest possible terms to do everything humanly
20 possible to be here on December 15th with a report as to the
21 conclusion of mediation. We don't have such a report. It
22 is still ongoing. Parties are engaged in it, but we're not
23 there yet.

24 Typically, exclusivity hearings focus, at least in
25 part, on the accomplishments of the last 120 days or 180

1 days. I'm not going to do that. It's in the papers and
2 candidly, I'm not so impressed or focused with all we've
3 accomplished in the last period, although it has been
4 monumental and critical. I am relentlessly focused on what
5 lies ahead and what is left to be done, especially since I
6 now think that now gets measured in a number of weeks that
7 is for sure single digits and probably closer to mid-single
8 digits than ten.

9 When we asked for February 15th, I think it won't
10 be a surprise to the Court or to anybody that you always
11 leave yourself a little bit of slippage, and so that means
12 that our current expectation is to file a plan in this case,
13 one way or the other, in January before the expiration of
14 exclusivity.

15 As the Court will no doubt be surprised to hear,
16 and certainly none of the bankruptcy lawyers or any of the
17 parties would be surprised to hear, the professionals on the
18 estate side have been working very, very hard to that end.
19 This is an enormously complicated plan, by any measure.

20 The issues that remain, essentially, between the
21 Sacklers and some of the states and other parties, are huge
22 and measured in the billions, but in terms of the complexity
23 of the deal, they're actually one aspect of it, and there
24 are many other things, including the five private side deals
25 that were resolved in phase one of mediation in terms of

1 structuring and documenting and implementing and classifying
2 and voting that are actually also enormously complicated.

3 Moreover, we don't yet know what plan and
4 disclosure statement we will be filing at the end of
5 January. Is there a deal? Is there no deal? You know, you
6 heard at the last hearing that people were not necessarily
7 willing to say that the private side deals would stick where
8 there were potential termination rights in the terms sheets,
9 absent either an acceptable DOJ resolution or a Sackler deal
10 as part of the deal.

11 And so, we actually also, back at the farm at
12 Davis Polk and PJT and Alix, find ourselves facing having to
13 draft for multiple alternatives because there are multiple
14 permutations of possible plans that need to be ready on
15 January 30th.

16 And so, we've been working kind of day and night
17 on the hundreds of pages of documents that are necessary for
18 things like that -- disclosure statements, plans, plan
19 supplements and the like, voting, ballots -- and we will
20 soon be inviting other core constituencies into this
21 documentation process. There are, of course, central issues
22 still being negotiated among the key parties where we're not
23 one side or the other. We're sort of a fiduciary in the
24 middle attempting to facilitate a deal, but we're neither
25 the payors, in the case of the Sacklers, nor really the

1 payees, in the case of the entities that are across the
2 Sacklers primarily in those mediations.

3 But there are many, many other things that are
4 involved, obviously, in the exit of a multi-billion dollar,
5 23-company enterprise from Chapter 11, that are very complex
6 and pen is being put to paper every day and many nights and
7 we trust that the other parties in the case will be
8 accepting our invitation to work collaboratively on these
9 documents.

10 Either way, we will timely get it done and we will
11 be filing a plan, as I said, I think -- not I think --
12 before the expiration of exclusivity, which is currently
13 February 15, and hopefully by a couple weeks before that, to
14 give a margin of error.

15 Your Honor, with respect to the filing on
16 exclusivity, there are no objections. There are several
17 filings. Unless the Court directs me otherwise, I'm
18 actually not going to engage in any sort of presentation or
19 colloquy on the content of those filings. Frankly, none of
20 them is an objection. In fact, one of them is actually
21 specifically in support.

22 The others express points of view on complex
23 topics. They express points of view that in some cases
24 reflect a sophisticated understanding of things that I don't
25 know nearly as well as the writers. In some cases, I think

1 they reflect an understanding of what actually has happened
2 in this case so far and what we hope to achieve that I very,
3 very strongly disagree with, but it doesn't matter, because
4 the docket is not a referendum for issues that are not yet
5 before the Court or on issues of public policy generally.

6 I think I've made that point at, I think, seven
7 hearing so far in this case. One files things to get a
8 Court to rule on motions, not to express general points of
9 view, at least in my experience, on issues of public policy.
10 And so, I actually would prefer not to get into my views on
11 any of the letters or the one actual response with respect
12 of parties' views on various forms of exit.

13 I think I'm not telling tales out of school to say
14 that I've also consulted with the other -- several other
15 governmental and fiduciary core parties in a case, and
16 that's very much a shared view, having today be a kind of
17 free-wheeling referendum on issues that are currently being
18 mediated, negotiated, discussed, and drafted would actually
19 not be helpful to the case.

20 And so again, obviously, always as an officer of
21 the Court, we'll answer any question that the Court puts to
22 me, unless it is unethical or unlawful to do so, but I would
23 prefer not to get into any of the substance with respect to
24 the complex social policy issues, structuring issues, plan
25 alternative issues, that are raised in the filings, because

1 candidly, this is an uncontested motion and I think that it
2 is simple as, we ask that the Court enter the order, to
3 which none of the 614,000 creditors in this case have filed
4 an objection.

5 THE COURT: Okay, that's fine. Does anyone else
6 have anything to say on this motion?

7 MR. KRAMER: I don't know what the motion means.
8 My name's Tim Kramer. I got a few things I'd like to say.
9 First of all, the corrected notice of hearing --

10 THE COURT: Excuse me, Mr. Kramer. Who -- can you
11 just tell me, are you representing someone? And if not,
12 what is your status in the case or what is your role in the
13 case?

14 MR. KRAMER: My role is, my fiancée died and I
15 became the guardian of her daughter and I became the
16 representative of her estate and I got this letter in the
17 mail and it's the corrected notice of hearing is in correct.
18 It says to call CourtCall and so I called them and they said
19 no, call Court Solutions, so I -- it was a big fiasco to try
20 to get to this phone call today, that's number one.

21 Number two, I have not received any letters or
22 emails, what that other gentleman was just talking about
23 regarding this. And number three, Purdue Sackler, I think
24 they owe my stepdaughter the money because they made the
25 drugs that killed my fiancée and I'm raising my stepdaughter

1 now.

2 THE COURT: Okay. So, Mr. Kramer, the particular
3 matter that is on the calendar first today is a motion to
4 extend the Debtors' time, which they have exclusively, to
5 file a Chapter 11 plan. It doesn't pertain directly to any
6 particular claim in the case. I'm assuming that you or one
7 of your family members filed a claim in the case, and that
8 may be what you got some form of notice on. If you had not
9 filed what's called a notice of appearance in the case,
10 i.e., a request for notice of all of the hearings and all of
11 the matters to be heard, then you would not have gotten
12 notice of this particular motion that I'm addressing now.

13 So, I guess I can understand your confusion,
14 particularly given that you're not a lawyer, but this motion
15 really doesn't directly relate to or address your or your
16 daughter-in-law's claim in this case. Those claims will be
17 dealt with in a claim review and analysis process, and will
18 be paid in some form -- it's highly unlikely that they'll be
19 paid in full -- but they'll be paid in some form if they're
20 allowed, once a plan, a Chapter 11 plan in the case is
21 confirmed.

22 So that's really what this hearing is about is to,
23 in essence, determine what time the Debtors have exclusively
24 to file that type of plan and dealing with scheduling issues
25 related to the filing and confirmation of a plan. It

1 doesn't really pertain to individual claims.

2 MR. KRAMER: Okay.

3 THE COURT: I hope that clears things up for you.

4 MR. KRAMER: Yeah, a little bit. I'm still
5 confused by the lawyer -- because I -- I've got a bunch of
6 lawyers contact me and I'm kind of surprised that they're
7 not the ones handling this hearing today. I don't know
8 anything about this kind of stuff, so --

9 THE COURT: Well, I don't know who's contacting
10 you, sir. Really, I'm not sure. I mean, it's the Debtors'
11 motion and the person speaking first is the Debtors' lawyer,
12 so he was the right person to be speaking about the motion.
13 But again, if lawyers have been contacting you about your
14 particular claim, which I doubt the Debtors' lawyers would
15 be, then you should just be dealing with them as you wish,
16 but this motion really doesn't relate to your specific
17 claim.

18 MR. KRAMER: Okay. Just so you know, it says the
19 -- "Please provide the following name, Eddie Andino,
20 divisional manager," and it's signed by Vito Genna, clerk of
21 the court.

22 THE COURT: I --

23 MR. KRAMER: November --

24 THE COURT: Again, I don't -- it's some form of
25 notice that you received in respect of a claim or a claim to

1 be filed, but it wouldn't pertain to this specific motion
2 that's before me today.

3 MR. KRAMER: Oh. Should I hang up then, or should
4 I stay on the line?

5 THE COURT: You could -- either one. Whatever you
6 want, sir.

7 MR. KRAMER: Okay. All right.

8 THE COURT: You don't have to stay on the line.

9 MR. KRAMER: Thank you.

10 THE COURT: But if you want to --

11 MR. KRAMER: I'll just listen to what you guys
12 have to say so I can -- kinds of makes a little sense to me.
13 I'll put on mute.

14 THE COURT: Okay. That's fine. That's perfectly
15 fine. All right. Does anyone else have anything to say on
16 this motion?

17 MR. BAMDAD: Yes, Your Honor. My name is Massoud
18 Bamdad and I'm one of the claimants in this case. I need to
19 know, am I going to get the -- am I going to receive a copy
20 of this, whatever they want to file on 15th of February?

21 THE COURT: Well, if what you're referring to is,
22 will you be served with a copy of the plan and disclosure
23 statement?

24 MR. BAMDAD: Yes, sir.

25 THE COURT: Yeah. Yes, under the Bankruptcy Code,

1 claimants -- and I'm assuming you filed a proof of claim in
2 this case -- are entitled to notice of a plan and disclosure
3 statement. They're not entitled to notice of every pleading
4 filed in a bankruptcy case. To get every pleading, you need
5 to file what's called a notice of appearance, asking to get
6 a copy of everything, but the Code has a special rule that
7 requires notice to those who file claims of certain really
8 important pleadings, like a plan and disclosure statement,
9 so I'm assuming you'll get notice of that.

10 MR. BAMDAD: Thank you, sir. And my last and
11 second question is, actually when I filed this lawsuit, I
12 brought name of some people that they involved in this
13 company. I have this question that they -- is this
14 bankruptcy involve those people, too, or just for the
15 Purdue?

16 THE COURT: Well, the bankruptcy case is for
17 Purdue Pharma and affiliate -- certain affiliated companies.

18 MR. BAMDAD: But not individual?

19 THE COURT: There's not an individual bankruptcy
20 case. Now, I don't know who you named in your lawsuit.

21 MR. BAMDAD: Like the CEOs and some member of the
22 Sackler family.

23 THE COURT: Okay. So, in addition to the
24 bankruptcy, however, you should know two things. First,
25 there is an injunction in place in this case that goes into

1 next year that prohibits the continued prosecution of
2 lawsuits against a number of third parties who are not
3 individual Debtors in the case. They may include people
4 that you sued in your lawsuit. That has been extended a
5 couple of times.

6 The reason for the injunction, in a nutshell, is
7 that those parties, the claim -- put it this way. The
8 claims against those parties are very similar, sometimes
9 they're identical to the claims against the Debtors in the
10 bankruptcy case, and the continued litigation of those
11 claims would severely impact the ability of the bankrupt
12 Debtors to put together a plan to pay creditors out of their
13 assets.

14 And in addition, the major parties in this case
15 have been engaged in an investigation and analysis and are
16 now engaged in negotiation of a potential collective
17 resolution of claims against those third parties.

18 MR. BAMDAD: Yes.

19 THE COURT: And the injunction is intended to
20 facilitate that process. That process isn't going to go on
21 forever and there'll --

22 MR. BAMDAD: Yes.

23 THE COURT: -- be some discussion about that later
24 in this hearing, but right now, you need to check to see
25 whether, if you're going to be pursuing that lawsuit, that

1 those people are protected by the injunction that's in
2 place, because if that's the case, then you really can't
3 continue until that injunction ends.

4 MR. BAMDAD: Yes.

5 THE COURT: So that's about all I can tell you
6 without knowing more about your lawsuit. And again, if you
7 filed a claim against the Debtor or the Debtors, you will
8 get notice of the Debtors' request for approval of the
9 disclosure statement and plan.

10 MR. BAMDAD: Yes, sir.

11 THE COURT: Okay.

12 MR. BAMDAD: Thank you very much.

13 THE COURT: Okay.

14 MR. HUEBNER: And Your Honor, just to the extent
15 helpful, since there are obviously many parties involved in
16 this case who have both suffered loss and may not have
17 counsel and be familiar with the byzantine pathways of
18 Chapter 11, just if there are other people listening, we did
19 set up a free website at the beginning of the case where
20 everybody can access every single document in the case for
21 free with no passwords and no sign-up and not fees. It's
22 Restructuring.primeclerk.com/PurduePharma. Or if you really
23 just google PrimeClerk Purdue, it'll pop up as the first
24 hit, and every document in the case is on there, and today's
25 agenda letter does, I think very clearly, reflect Court

1 Solutions. When the Court switched service providers many
2 months ago, we switched as well so apologies, Mr. Kramer, if
3 -- you may have been looking at a pretty old document that
4 still had CourtCall on there, but it is definitely Court
5 Solutions, and again, our documents have said that for a
6 while. So hopefully, those two pieces of kind of public
7 access information are helpful to people on the phone, and
8 you can always check the docket to see what's going on, even
9 if you don't want to do a notice of appearance and get the
10 many, many, many filings in the case. There's always a way
11 to just go onto that website and you can see what's new
12 since the last time that you checked.

13 MR. BAMDAD: Say --

14 MR. HUEBNER: -- Your Honor --

15 MR. BAMDAD: I'm sorry, interrupting you. Could
16 you repeat that website or whatever you --

17 MR. HUEBNER: Sure, absolutely. It's
18 restructuring dot --

19 MR. BAMDAD: Restructuring?

20 MR. HUEBNER: Restructuring. Yeah, exactly.

21 MR. BAMDAD: Restructuring.

22 MR. HUEBNER: Yep --

23 THE COURT: With an R.

24 MR. HUEBNER: With an R.

25 MR. BAMDAD: Restructuring what?

1 THE COURT: Yes, restructure.

2 MR. HUEBNER: Restructuring, dot --

3 MR. BAMDAD: Yes.

4 MR. HUEBNER: PrimeClerk, which is one word, P-R-

5 I-M-E-C-L-E-R-K, dot com, slash --

6 MR. BAMDAD: Could you repeat that, P-R-I?

7 MR. HUEBNER: M like Marshall, E like Edward,

8 clerk --

9 MR. BAMDAD: Clerk?

10 MR. HUEBNER: Dot com. C-L-E-R-K, dot com.

11 MR. BAMDAD: yes.

12 MR. HUEBNER: Slash and then just as one word,

13 Purdue Pharma.

14 MR. BAMDAD: Purdue Pharma. Okay. Dot com.

15 MR. HUEBNER: exactly.

16 MR. BAMDAD: Okay, dot com, Purdue --

17 MR. HUEBNER: Exactly, but again, if you can't

18 find that, if you really just google Prime, Clerk, and

19 Purdue as three words, it will pop up as the first hit and

20 you'll find it right away.

21 MR. BAMDAD: Thank you very, very much.

22 MR. HUEBNER: Absolutely. It's our job.

23 THE COURT: Okay. Does anyone else have anything

24 to say on the motion --

25 MS. ECKE: Yes, Your Honor --

1 THE COURT: -- which is the Debtors' request to
2 extend the exclusive period?

3 MS. ECKE: Yes, Your Honor. I'm Maria Ecke and my
4 son --

5 THE COURT: Okay --

6 MS. ECKE: -- David Jonathan --

7 THE COURT: Ms. Ecke, I'm sorry. Ms. Ecke, we
8 have your motion on next, so I will address it, but I'm just
9 focusing again on the Debtors' motion for an extension of
10 their exclusive period to file a Chapter 11 plan. We will
11 get to, shortly, your motion for payment which is on the
12 calendar separately.

13 MS. ECKE: Thank you, Your Honor.

14 THE COURT: Okay. Very well. All right, anyone
15 else? Okay. I will grant the motion of the Debtors for a
16 third extension of their exclusive period to file a Chapter
17 11 plan and the related 60-day extension of the time to
18 solicit acceptances of such a plan.

19 The motion is unopposed and it's understandable
20 why, given the current status of the case, which is first
21 and foremost an active mediation of the primary two open
22 issues remaining in these cases, namely, first the actual
23 forum and governance structure for the post-confirmation
24 entity, which was the subject of substantial discussion at
25 the last omnibus hearing in November, and secondly, the

1 potential resolution of two sets of claims asserted against
2 the members or members of the Sackler families, the first
3 being claims that the Debtors would have, such as for the
4 potential avoidance of alleged fraudulent transfers and the
5 like, or derivative claims that they would have, and second,
6 claims that third parties would have which, obviously, would
7 be settled not through the normal 9019 bankruptcy settlement
8 process, but rather in return for some form of permanent
9 release or injunction of civil claims -- of such civil
10 claims.

11 The mediation has not concluded. I gather it's
12 well underway and to permit that process to conclude and
13 inform a plan, is a critical step -- hopefully the last
14 critical step -- in these cases before a plan would be up
15 for confirmation.

16 That fact alone would really be sufficient under
17 Section 1121 for an extension of exclusivity, but the other
18 factors commonly cited by the courts including in in Re:
19 Adelpia Communications Corp., 342 B.R. 121, 131 (Bankr.
20 S.D.N.Y. 2006) and in Re: McClain Industries, Inc., 87 B.R.
21 830, 834 (Bankr. S.D.N.Y. 1987), also all argue for the
22 further extension sought by the Debtors.

23 I note that Mr. Huebner, the Debtors' counsel, has
24 stated the Debtors' strong desire and -- or inclination to
25 file a Chapter 11 plan before the conclusion of this further

1 extended exclusive period, which would be through February
2 15th. I, of course, am not involved in the mediation and do
3 not know the details of it.

4 But I think it is important, subject, of course,
5 to the mediators who have the ultimate discretion here,
6 telling the parties otherwise, that the parties should focus
7 on an end date for that mediation so that a plan can, in
8 fact, be prepared that has substantial support, and indeed,
9 with respect to third party claims against the Sacklers,
10 more than substantial support, overwhelming support,
11 although not necessarily unanimous support.

12 Knowing the scope of the two issues that are being
13 addressed in the mediation, having had the benefit of
14 reviewing the parties' counsel's fee applications, and
15 obviously, based on my involvement in the case thus far, it
16 seems to me that an outside date for the conclusion of the
17 mediation should be no later than January 31.

18 Now, I know Mr. Huebner said he wanted to file a
19 plan by the end of January, but I want to give the parties
20 enough time, not only to reach what I would hope to be
21 agreements in principle on the two main issues, but to put a
22 lot more detail behind them, and I think that might,
23 realistically, take tow the end of January.

24 On the other hand, I think that it is important to
25 have an end date and that that end date is a realistic one,

1 given the literally tens, if not hundred, of thousands of
2 hours put into the analyses of these two issues already. I
3 simply cannot concede that the parties will not know the
4 answer one way or another as to whether they can reach
5 agreement on these two issues by that date.

6 So, I want you to tell the mediators that that is
7 a deadline I believe would -- should be set and is set,
8 unless they strongly disagree with it. The most difficult -
9 - as far as conceptual difficulty is concerned -- issue in
10 these cases has already been mediated. When these cases
11 began, it was clear to me, and I think clear to all the
12 parties, that the truly novel issue here in these cases is
13 the allocation of the Debtors' value to what one can
14 conceivably view as a creditor body comprising almost
15 everyone in the United States and how that money should be
16 spent or that value should be spent.

17 Remarkably, there was incredible consensus on that
18 issue after a lengthy mediation facilitated by, as I've
19 said, two of the most talented mediators in the world, and
20 great good will and efforts by very diverse parties,
21 including thousands of governmental entities and 48 states.

22 The two remaining issues, while obviously
23 difficult and sensitive, can be resolved more quickly with
24 the same level of good will, which I know these parties
25 collectively have. The corporate structure and corporate

1 governance issues demand careful consideration, but
2 ultimately, require focus on delivering the maximum amount
3 of value consistent with proper social and business conduct
4 to the people who have been injured by these Debtors.

5 There is no easy answer to that. There are
6 conflicts of interest, potentially, everywhere, just as, for
7 example, one could argue that the acceptance of a
8 substantial amount of revenue from tobacco taxes is a
9 conflict of interest. Almost everything involving realizing
10 value for beneficiaries here could be couched as a conflict
11 of interest, but of course, ultimately, one needs to get
12 satisfied that the value is being used properly and most
13 effectively and provides enough flexibility in its
14 government structure to change course, if necessary.

15 I trust you all can do that, and do that promptly
16 and well before January 31. As far as the issues with the
17 Sacklers are concerned, the parties know, but everyone
18 should know, that I have no power over criminal liability.
19 We're ultimately here in these cases talking about a
20 resolution of claims for money.

21 The parties don't have to reach agreement, but I
22 urge them to do their best to do so by January 31 on those
23 issues so that if possible, a settlement is reached on both
24 the Debtor claims and, potentially, the third-party claims
25 that would allocate funds in an appropriate amount to abate

1 the opioid crisis.

2 If that isn't done, as far as third party claims,
3 there's an obvious alternative, though it seems to me,
4 knowing those basic facts, knowing the strength and
5 weaknesses of the Debtor estate claims and the third party
6 claims, the parties simply need to conclude these
7 negotiations so that a plan can be filed because, as we all
8 know, every day that passes some poor soul is not getting
9 either the counseling that he or she needs or the treatment
10 he or she needs or an NAS baby is no longer a baby and her
11 grandparents are not getting the help they need.

12 So please, get it done. All right. I would like
13 to move on the agenda to the third matter, which is Ms.
14 Ecke's claim payment motion and then we can come back to the
15 fee applications.

16 MR. HUEBNER: That's perfect, Your Honor. I
17 actually was about to make that same request, so thank you
18 for that. Your Honor, one very, very tiny technical point,
19 and apologies for this. We actually asked for 60 days on
20 filing a plan but 90 days on soliciting, given --

21 THE COURT: Oh, that's right.

22 MR. HUEBNER: -- claim --

23 THE COURT: You're right. It's normally 60 days
24 for solicitation, but you asked for 90 days and that's
25 warranted given the size of the creditor body here.

1 MR. HUEBNER: So, apologies. I didn't want to be
2 persnickety, but I did want to point it out.

3 THE COURT: Right.

4 MR. HUEBNER: So, with that, Your Honor, we will
5 send in the order for entry. There are no comments from any
6 part on the form of it, and I think that we are now ready to
7 move to Agenda Item No. 3, Mr. McClammy will be handling
8 that for the Debtors, but obviously, it is Ms. Ecke's
9 motion, so I will turn the podium over to her.

10 THE COURT: Okay.

11 MS. ECKE: Thank you, Your Honor. I'm Maria Ecke
12 and my son David Jonathan Ecke died December 17th, 2015, and
13 I have a letter that I wrote to Ryan Hampton, Blue Cross
14 Blue Shield Association; CVS Caremark Part D Services, LLC;
15 Health, LLC; Cheryl Juaire; LTS Lohrmann Therapy Systems
16 Corporation; Pension Benefits Guarantee Corporation; Walter
17 Lee Salmons; Kara Trainor; and West Boca Medical Center; the
18 Official Committee of Unsecured Creditors care of Akin,
19 Gump, Strauss, Hauer, and Feld. It's concerning my motion
20 for claim payment.

21 "Dear Committee Members: According to Google, the
22 Sackler family behind Purdue Pharma is one of the richest
23 families in the U.S. with an estimated \$13 billion fortune
24 from the sales of the controversial prescription pain
25 killer, OxyContin. According to Forbes, also on Google,

1 today Purdue is still a hundred percent owned by the Sackler
2 family, generates some \$13 billion in sales in the U.S.
3 separate Sackler-owned companies, which sell drugs in
4 Europe, Canada, Asia, and Latin America. An estimated 20
5 family members share in the fortune. Sacklers withdrew \$12
6 billion over 13 years from Purdue Pharma as the opioid
7 epidemic grew.

8 "To my understanding, after my conversation dated
9 December 12, 2020, with attorney Edan Lisovicz of Akin,
10 Gump, Strauss, Hauer, and Feld, LLP; emails to Ryan Hampton,
11 Committee member; and attorney Ed Neiger who represents the
12 victims in this case, I learned that the Sackler family only
13 wants to settle for \$3 billion over seven years. This is
14 the amount of money that the Sackler family still make per
15 year.

16 "The amount of \$3 billion is a slap in the face of
17 many Americans who have lost their beloved children or
18 relatives because of this illegally pushed drug by Purdue.
19 How can mediators and attorney put a price on the lives of
20 victims and the injury that it has caused to families unless
21 they have lost children to the drug themselves? Purdue
22 Pharma should pay Claim No. 16810 to Maria Zekoff Ecke,
23 Richard Roberts Claim No. 22855, Richard Ecke's claim No.
24 23016 in the amount of \$242 million and Peter
25 (indiscernible) Claim No. 16817 in the amount of \$250,000,

1 which is less than originally asked for.

2 "My son was worth much, much more than \$242
3 million, which I put on the paperwork to you. He was the
4 great-great grandson of the treasure to the tsar of the
5 Ukraine, Konstantin Makarenko, one of two living relatives.
6 He was my firstborn who died needlessly. There is clear and
7 convincing evidence of Purdue Pharma's gross negligence and
8 reckless indifference to the patients' health, wellbeing,
9 and suffering.

10 "My son David Jonathan Ecke has such potential in
11 his life to help everyone with his study of botany like his
12 great-grandmother, Maria Baklin only to be maimed and killed
13 by these devil drugs. Purdue Pharma needs to pay or
14 otherwise make me whole.

15 "The mediators, Layn Phillips, Kenneth Feinberg,
16 and the Court should also be careful which company they
17 choose to administer the settlement. My own personal
18 experience with Kurtzman Carson Consultants of 75 Rowland
19 Way, Suite 250, Novato, California 94945 and other KCC
20 affiliates such as Galardi and Company, LLC in Louisville,
21 Kentucky; Epic Global Claims Administrator in San Francisco;
22 and U.S. megabanks which put me in foreclosure was much less
23 than satisfactory.

24 "All this had a negative effect on my family's
25 life, and ultimately, led to my divorce. But Purdue

1 Pharma's addictive drug OxyContin and oxycodone, which led
2 to the death of my beautiful, smart son David Jonathan Ecke
3 on December 17, 2015, was the destruction of our lives.
4 Doctors and Purdue Pharma needlessly prescribed this devil
5 drug to my son due to greed. Only one doctor prescribed
6 physical therapy which my son actually needed. Now I only
7 have tears and memories to comfort me. Thank you from a
8 bereaved mother, Maria Ecke, and I sent a copy to you, Judge
9 Drain, and I sent a copy to Marshall Huebner, and to Lane
10 Phillips, and to Kenneth Feinberg. This is -- the letter
11 that I just read you is a little bit revised from the copy
12 that I mailed you because I mailed it only yesterday. Thank
13 you.

14 THE COURT: Okay. And thank you. Now I have
15 reviewed that letter and I've heard you carefully, Ms. Ecke.
16 I've also reviewed the debtor's objection to the motion. Do
17 the debtors have anything more to say that they haven't said
18 in the objection?

19 MR. MCCLAMMY: Thank you, Your Honor. This is Jim
20 McClammy from Davis Polk on behalf of the debtors. The only
21 thing I will say, similar to what we've stated in our
22 papers, is we truly understand that these claims are rising
23 from tragic circumstances and as the Court is aware, as Mr.
24 Huebner stated earlier, the debtors, you know, remain
25 sympathetic to those affected by the opioid crisis and very

1 much committed to moving these cases forward as quickly and
2 efficiently as we can. And otherwise, we will stand on our
3 papers unless Your Honor has any further questions.

4 THE COURT: Okay. No, I don't. So, Ms. Ecke, I'm
5 going to give you my ruling on the motion, and also address
6 what I think are important points you've made in that motion
7 and in your letter.

8 As far as the debtors are concerned, not the
9 Sackler family members but just the debtors, the motion
10 seeks a particular form of relief. It's seeks immediate
11 payment of the claims that were filed by you and others
12 referenced in your letter. It is of course absolutely true
13 that one really cannot put a price on a human life or even,
14 frankly, on an injury to someone who survives but has been
15 harmed. At the same time, that is what courts do often
16 because claims are asserted against companies and people for
17 such loss and the courts knowing full well that they're
18 engaging in a legal fiction, nevertheless, do put a price on
19 that loss and also determine issues such as causation and
20 the like -- legal issues.

21 We do it all the time, and indeed, mediators do it
22 too. Mr. Feinberg, as I think you may know, was the lead
23 mediator on the 911 claims. He had the difficult choice of
24 allocating the money provided by our government to those
25 victims and their families. One cannot allocate a recovery

1 without doing that type of analysis even though we all know
2 separately as people that it's not enough ever. So I am,
3 again, addressing that portion of your motion that seeks
4 immediate payment of the claim filed in this case against
5 the Purdue debtors for money for that loss.

6 Now with respect to that motion, there is a
7 fundamental principle of bankruptcy law which is that,
8 claims like this -- unsecured claims -- do not get paid
9 until a plan is confirmed that sets up a mechanism and a
10 distribution scheme for paying all of the claims asserted
11 against the debtor. The rationale for that is a simple one.
12 No individual creditor should get a leg up on payment over
13 all the rest. Rather, there should be a collective
14 resolution proposed, sent out on notice so that all the
15 creditors can see whether they think it's fair or not and
16 complies with the bankruptcy law, and if it's approved,
17 confirmed. And then the claim payment mechanism would go in
18 effect.

19 Now here, it is clear to me not only that that
20 must happen first according to the bankruptcy law but also
21 the claims themselves -- and they are tens of thousands --
22 hundreds of thousands of claims filed in this case -- need
23 to be sorted through, analyzed, and addressed to see whether
24 they should be allowed. Most of those claims, because of
25 the very hard work that was done in the first mediation in

1 this case, will not have to go to that process if a plan is
2 confirmed, based on the settlements reached in that
3 mediation because those claimants have agreed that whatever
4 money would go to them would instead go to efforts to abate
5 the opioid crisis going forward. That applies to most of
6 the claimants who have filed claims in this case.

7 It does not apply to personal injury claimants
8 like you on behalf of your son. The settlement with respect
9 to those who were representing personal injury claimants in
10 large numbers -- a large number of those people, that is --
11 have agreed to use a hopefully streamlined and cost-
12 effective way to look at those claims on an individual
13 basis, to discern -- determine -- whether they are properly
14 against Purdue and the amount that those claims should be
15 allowed at. In my experience in a lot of other cases
16 involving personal injury claims, those types of processes
17 result in 99.99 percent of the time an agreement between the
18 claimant and the post-confirmation claim manager as to how
19 the claim would be allowed and the amount.

20 But that will have to happen too. So under the
21 bankruptcy law, it is premature to provide for payment now.
22 And so the motion before me which specifically seeks for
23 such an early payment must be denied without prejudice of
24 course to your rights as a claimant and the other people's
25 rights as a claimant but to have their claims paid after a

1 plan is confirmed.

2 Now as far as the portion of your letter dealing
3 with the Sackler family, I guess all I can say is that the
4 creditors committee and others in these cases and the
5 debtors have spent already I estimate based on looking at
6 fee applications well over 50,000 hours analyzing potential
7 claims against the Sacklers. Just like you cannot put a
8 price ultimately on a human life, there is a legal analysis
9 that needs to be done that is separate from whatever one
10 might think morality might require because the laws lay out
11 specific rights and defenses with respect to all actual
12 legal claim that might exist against the Sacklers. And it's
13 crystal clear to me that the lawyers in this case have
14 provided, have undertaken, and shared as detailed a legal
15 analysis and factual analysis of those rights and defenses
16 as one would ever see in a court of law.

17 So whatever result is reached, it will be guided
18 by that analysis because ultimately it's the legal merits of
19 those claims that have to guide the parties and ultimately
20 me. We only have the laws that we have, in other words,
21 and that is what the mediation is addressing now and I hope
22 will result in an agreement that is acceptable to, as a
23 legal matter, the vast majority of people involved in this
24 case including you.

25 But again, at this point in the case, I really

1 can't say any more than that with regard to how you've
2 raised questions or issues regarding ultimately claims
3 against the Sacklers. One thing is clear already. They
4 will not retain any equity in these debtors under a plan.
5 They will lose it all. The issue is, what else will they
6 pay, and that is under very heavy negotiation after the
7 extensive analysis that I've already discussed.

8 So I will ask the debtors to submit an order
9 denying the motion's request for immediate payment,
10 obviously, without prejudice to Ms. Ecke's right to receive
11 a distribution in respect of her claim and the other claims
12 referenced in the motions right to receive a distribution as
13 and when those claims would be allowed and pursuant to a
14 plan in this case.

15 I have seen at least two other letters that are
16 somewhat similar to Ms. Ecke's. They did not schedule a
17 hearing on a motion similar to Ms. Ecke's and we have not
18 done so given the clear requirements of the bankruptcy code
19 that would require denial of such a motion and my belief
20 that the motion really -- those letters that I've received
21 since Ms. Ecke's letter didn't as clearly ask for payment.
22 So I think that if there are similar letters coming in in
23 the future, unless they actually ask to have a hearing
24 scheduled, counsel for the debtors should reach out to the
25 person who sent to the letter and say -- refer them to this

1 ruling and this order and say if they want to have a hearing
2 they can, but otherwise, their claim will be dealt with as
3 part of the post-confirmation process for considering claims
4 that would receive some form of monetary distribution under
5 the plan as opposed to having their distribution be in the
6 form of abatement efforts generally.

7 MR. MCCLAMMY: Thank you, Your Honor. We will
8 definitely prepare the form of order. I believe there be
9 two other -- two of those motions may have actually gotten
10 docketed with a notice of a hearing for the January hearing.
11 I know we've been in touch with one of the moving parties
12 there and we will reach out to the other to see if we can
13 resolve that in advance.

14 THE COURT: Okay.

15 MS. KRAWEZYK: Excuse me.

16 THE COURT: I think those are probably letters I
17 was referring to. And again, I didn't think they actually
18 asked for a hearing or actually asked for immediate payment.
19 I think they were slightly different than Ms. Ecke's letter
20 so you can relay that to them too.

21 MR. MCCLAMMY: Yes, Your Honor.

22 MS. KRAWEZYK: Your Honor? Excuse me.

23 THE COURT: Sure.

24 MS. KRAWEZYK: My name is Kimberly Krawczyk. I
25 did send you a letter at the beginning of the process. I'm

1 a resident of Massachusetts. I lost my brother tragically
2 at the tip of the epidemic in 2012 and I'm the class action
3 with the state of Massachusetts. I would like to speak in
4 the honor, in memory of my brother. Would you like me to
5 read the letter that I did provide to you or would you just
6 like to just speak in his memory?

7 THE COURT: Well, ma'am, I have to say, ma'am, I
8 hold hearings on what is scheduled before me. There are
9 literally hundreds of thousands of people who have lost dear
10 family members because of opioids. I don't think that this
11 is the proper forum to do this. Again, the courts decide
12 matters that are brought before them and notice for the
13 parties. Your brother's memory, obviously, is dear and I
14 don't want you to think that your memory of him and hurt
15 from his loss isn't front and center in my mind and frankly
16 in the minds of the lawyers and financial people who are
17 trying to resolve this case. But our job (indiscernible).
18 Believe me, we understand, I think, the tragedy that
19 countless families have felt and we simply can't turn these
20 hearings into something that the law really doesn't
21 contemplate which is focusing on things beyond what is
22 actually scheduled to be heard, that the parties prepare on,
23 brief, and analyze.

24 So I'm not going to let you speak further on this.
25 As much as I know your words are important, this isn't the

1 right setting for it.

2 MS. KRAWEZYK: Okay. I thank you for that but
3 when I did register for this call I believe that
4 (indiscernible) gave me the option to speak.

5 THE COURT: Well, but ma'am, that's largely a
6 mechanical and scheduling matter and it's assumed --

7 MS. KRAWEZYK: Oh.

8 THE COURT: -- that the people who are speaking
9 will be speaking on the matters that are calendared for that
10 day.

11 MS. KRAWEZYK: Oh, okay. My --

12 THE COURT: I don't -- we don't have our people in
13 the clerk's office interrogate people about what they're
14 going to say or the like, but it's assumed that they will be
15 addressing the things that are actually to be decided by me
16 on that particular calendar day which is why Ms. Ecke was
17 allowed to speak because she had calendared her motion and
18 it was heard and decided.

19 MS. KRAWEZYK: I see. Okay. My apologies. At
20 some point, I really would like to --

21 THE COURT: No, it's completely -- look, it's
22 completely understandable. I'm not faulting you. You're
23 not a lawyer. You've been through a lot and I want to make
24 sure that -- well, let me say this. I think what Ms. Ecke
25 said and what we've heard from other people, both in letters

1 and in court, speaks for people like you as well.

2 MS. KRAWCZYK: Okay. My apologies. As some
3 point, I would like to speak. He was my last family member
4 and my entire family has been affected through this epidemic
5 and through Purdue Pharma's family. So I really would like
6 to speak from the pain that it has created and me being left
7 behind with no family. So thank you, Your Honor, for your
8 time and I will just listen. Thank you.

9 THE COURT: Okay. And thank you. And I do want
10 to assure and Ms. Ecke and, frankly, anyone else that from
11 the start of this case, my goal and I believe, frankly, all
12 of the parties' goal has been to use the value of these
13 debtors to abate the opioid crisis going forward as much as
14 that can be done, consistent with being socially
15 responsible, and to address the monetary claims of people
16 specifically injured who are not willing to have the
17 recovery go to abatement to prevent future losses. That's
18 what the parties are negotiating right now and have
19 negotiated to a large measure.

20 Okay. I think that leaves on the calendar the
21 interim fee applications which I already referenced a couple
22 of times.

23 MR. HUEBNER: It does, Your Honor. So the record
24 again, Marshall Huebner of Davis Polk I guess sort of behalf
25 of -- I'm not really on behalf of everybody but just to give

1 the Court an update.

2 Your Honor, the fee examiner once again sprung
3 into action in a timely and efficient. I believe that they
4 contacted basically every party who submitted a fee
5 application with a detailed report -- ours was actually many
6 pages long -- raising questions and comments and asking for
7 further documentation about various fees, various expense,
8 various time entries. There is issues with respect to, you
9 know, too many people at hearings, too many people on
10 conferences. You know, the type of things that I can
11 believe that their (indiscernible).

12 It took until late last night because there was a
13 lot of stuff obviously for them to wade through and the
14 counterparties, but I believe that it is now the case that
15 reductions have been agreed to between, in each case,
16 bilaterally, the examiner and each of the professionals from
17 whom they sought reductions. And so obviously, we all of
18 course are at the Court's pleasure but I think that from a
19 procedural approach in order to obviously do this as cost
20 effectively and efficiently as possible, you know, we've at
21 work preparing an omnibus order in the type of form I think
22 it's been used at the last couple of quarterly hearings that
23 reflects and addresses the reductions and obviously will
24 save cost by having a single order if and only of course if
25 that's the Court's pleasure that does -- I know that at

1 least for some of the firms, while, you know, it's even
2 difficult to articulate words about the needs of
3 professional service firms in light of the, you know, people
4 that the Court has just been talking to who obviously
5 deserve everybody's infinite sympathy, there are year-end
6 issues that people are facing, obviously because of the
7 delay payment structure embedded in the bankruptcy system in
8 general.

9 There's already -- you know, this period already
10 ended a little while ago and much of the work was worked
11 several months ago and so I think then particularly with
12 year-end approaching, subject obviously (indiscernible) the
13 Court's concerns, I think that there are quite a few firms
14 on all sides who be very appreciative of if possible being
15 paid before year end. This is a lot to clear on the company
16 side. The company actually does itself shut down the first
17 (indiscernible) at the end of the year as many do. So at
18 this point, I'm going to stop talking and ask the Court for
19 guidance but I think that's probably the update on where we
20 are on the fee apps for the various parties in the agenda
21 letter which is (indiscernible) resolved.

22 THE COURT: Okay. Let me make sure I completely
23 understand. So recently, like basically yesterday, maybe
24 the day before, the fee examiner and each of the applicants
25 has agreed on the amount that would be sought here?

1 MR. HUEBNER: Yes, Your Honor. That's correct and
2 apologies if I was --

3 THE COURT: And also allowed on an interim basis?

4 MR. HUEBNER: Yes. Yes, Your Honor.

5 THE COURT: Okay. And is there any -- would that
6 assume that with respect to the amounts agreed to be allowed
7 that that full amount would be paid knowing that there's at
8 least another quarter where there would be the 20 percent
9 holdback going forward?

10 MR. HUEBNER: Yes, Your Honor. I mean, there's
11 probably more than a quarter again because of the time lag.

12 THE COURT: Yeah.

13 MR. HUEBNER: I don't think (indiscernible) --

14 THE COURT: That's right because this goes through
15 September.

16 MR. HUEBNER: -- so it's, you know, October or
17 November, December, January, February --

18 THE COURT: Right.

19 MR. HUEBNER: There's probably a bunch of months
20 left, you know, where obviously for some months work has
21 been done but zero's been paid. I think for -- actually,
22 I'm not even sure there's a single month where 80 percent
23 has yet been paid and there are obviously the months yet to
24 be worked --

25 THE COURT: Right.

1 MR. HUEBNER: -- where there's a delay in payment
2 as well as the 80/20 until there'll (indiscernible) one more
3 interim hearing or just a final hearing.

4 THE COURT: Okay. So I have reviewed these
5 applications and there are 26 of them, a fairly dizzying
6 array of professionals. I didn't have the benefit obviously
7 of seeing the agreements with the fee examiner. However, I
8 do have the benefit in this case of there being a fee
9 examiner, Mr. Klauder, and it appears clear to me from his
10 firm's application and prior appearances that he is quite
11 diligent in going over the applications.

12 So this is what I'll do. I will have you submit
13 the order. The applications are otherwise unopposed and as
14 agreed with the fee examiner are unopposed as well. I had
15 concerns about a number of these applications and I assume
16 that they are subsumed in the agreements that the fee
17 examiner has reached with the applicants. What I will do,
18 and I know Mr. Klauder and his counsel are on the call, I
19 will simply note some thematic concerns that I have and
20 leave it at that. I trust -- I assume that he has -- he had
21 those as well and that they informed at least in part what
22 he asked the professionals to agree to as far as reductions.
23 If he hasn't, however, I would want him both going forward
24 as well as in respect of the final applications to consider
25 these issues and basically decide whether he believes that

1 there should be an additional reduction as part of the final
2 application in light of my raising them.

3 The first is one that a number of the applications
4 share and has always been a bugaboo of mine which is the
5 time spent of monthly applications and fee applications. I
6 appreciate that because of the public nature of these
7 applications, time does need to be spent in reviewing them
8 to see whether anything that might waive the attorney/client
9 privilege or another privilege should be redacted, but there
10 are a number of applications where, you know, an excess of
11 200 hours is spent on time just for monthly and interim
12 applications. There are some well over 100 hours and I'm
13 assuming that the fee examiner has looked at those and
14 decided which should be reduced and which are legitimate in
15 light of the requirement that Congress imposes to provide
16 more disclosure than you would normally do and to make it
17 public as opposed to just a disclosure to a client. But
18 that's one concern.

19 The other concern I have is potential duplication
20 of effort and I don't know who should be doing what and who
21 is the duplicator and frankly, I would be exploring whether
22 it is actually duplication, but I'm just going to go through
23 now where I have a concern. And again, this doesn't reflect
24 that I believe one firm is a duplicator and the other isn't
25 because it's hard for me to tell without further enquiry.

1 But with regard to the KPMG application which is
2 almost entirely for tax analysis, it would appear to me that
3 there's a distinct possibility of potential duplication with
4 Province's work on tax matters which is far less. And maybe
5 it's not duplication. I don't know but that's a concern.

6 With Skadden's work, almost all of which is
7 respect of dealing with the Department of Justice and the
8 DOJ settlement, it appears to me there's a potential
9 duplication with work on similar issues with the DOJ by King
10 and Spaulding. Again, I'm not sure whether one firm or the
11 other is doing work that it doesn't need to do but it's
12 worth looking at.

13 With Jeffries' work and Province's work of sale
14 alternatives or sale exploration or exploration of sale
15 alternatives, there's also a potential for duplication with
16 the same caveat. I'm not sure who's duplicating what. Now
17 I appreciate Jeffries is on a flat fee but I'm not sure
18 whether the two firms are basically doing the same work as
19 far as exploring alternative sale possibilities.

20 There are obviously several counsel representing
21 the ad hoc group of consenting governmental entities. It
22 appears to me in most cases they have divided up the work
23 among themselves so there's not duplication of effort, but I
24 did have questions as to whether when they bill for case
25 administration, meetings, plan and disclosure statement,

1 asset analysis, and business operations sort of across the
2 board they should all be doing that. In addition, there
3 seems potentially to have been duplication of effort between
4 Kramer Levin and Otterbourg on the governmental entity's own
5 proofs of claim. Again, that may not be the case. Maybe
6 they divided up the tasks and I'm not sure who should if
7 they didn't not have been billing for this.

8 And then lastly, for the Baird firm and I am
9 concerned about this one because it's billed as a final
10 application -- the Baird firm was the creditors committee's
11 efficiency counsel and yet it seems to have spent a lot of
12 time generally attending hearings, not just on their matters
13 but the hearings generally -- \$43,000 worth -- reviewing the
14 docket generally, case administration generally, and staying
15 informed on the status of other opioid cases in litigation.
16 And that's of concern to me. It's not something that
17 efficiency counsel normally would do. Normally, they're
18 given a specific task or tasks and told to do it and not to
19 attend all hearings, for example. So I guess given that
20 that is a final application, my view, because it well be
21 that I am more aggressive on this application than the fee
22 examiner might have been, that it should be treated as not a
23 final but a last interim so that the examiner can consider
24 those points in connection with the final fee application
25 process.

1 Obviously, no judge likes to have a firm just
2 gorge money but the Baird firm is large enough so that I
3 trust that if there is a determination that the agreement
4 reached with the fee examiner doesn't cover the points that
5 I just raised, the Baird firm to good for it to give it
6 back.

7 Lastly, the Akin Gump application includes in the
8 expenses roughly 1.2 million of, quote, professional fees
9 legal, close quote. I'm assuming that's contract lawyers.
10 I want to make sure that the fee examiner has reviewed what
11 they were doing as well to make sure that it satisfied
12 Section 331 of the bankruptcy code. I'm assuming that those
13 people's work is in addition to the over 19,000 hours of
14 analysis of pre-petition transactions that Akin Gump lawyers
15 themselves engaged in during this fee period. But I don't
16 know. I don't know what they were doing so that's another
17 issue that I want to make sure the fee examiners consider.

18 So with those remarks, and again, they won't
19 affect the order except with respect to the Baird firm which
20 I believe should be treated simply as an interim order, I'll
21 grant the applications as agreed with the fee examiner,
22 subject to final fees of course or final fee applications.

23 MR. HUEBNER: We will send in the order in Word.
24 We will also of course make the transcript available to the
25 fee examiner as soon as it arrives so that the Court's

1 concerns as articulated are sort of there in writing which
2 may or may not lessen the burden of the Court to put all
3 them in the fee order itself.

4 THE COURT: Right.

5 MR. HUEBNER: So we will act as messenger.

6 (indiscernible) than likely Mr. Klauder is online but, you
7 know, we often get the transcripts first.

8 Your Honor, with respect to the time for billing
9 just so the Court understands at least from my perspective
10 and the rest I think we'll leave to the future. Certainly,
11 you know, we at Davis Polk -- I can only speak for myself --
12 are very mindful of that. You know, there are sort of
13 guidelines of, you know, the number of percent points that
14 courts have generally found acceptable. We actually write
15 off time as we need to to stay well underneath that, but it
16 is also correct as the Court noted that because of things
17 like the DOJ investigation, civil and criminal issues, very
18 confidential negotiations, and the like, you know, there is
19 an unusual need for redaction. This is a very different
20 case for all of us, frankly, and whether it's, you know, the
21 UCC or the debtors or the ad hocs, you know, people don't
22 want, I think, others to be able to figure out things from
23 our very detailed and monthly time records that are
24 decidedly not public. And so I think that, you know --
25 well, I think we actually stayed under 2 percent which is

1 way under what many of the cases say. You know, I think
2 that there is a little extra work to do here. This is not
3 just a second-lien group equitizing and refinancing the
4 first lien. Obviously, it's very socially complicated,
5 legally complicated, and politically complicated.

6 But obviously, everybody I'm sure heard the Court
7 loud and clear and will continue to (indiscernible) that
8 they need to and I'm sure the fee examiner heard the Court
9 very loud and clear as well including the appreciation for
10 the very hard work. And I can certainly, from my
11 perspective, confirm that they kept stuff, you know,
12 sometimes like with incredible (indiscernible), you know,
13 this \$12 thing didn't match, you know, kind of thing, so
14 they certainly are doing their work within intensity and
15 alacrity.

16 Your Honor, that does complete the agenda. I
17 think (indiscernible) emails during the hearing that unless
18 I am wrong further confirm that the public assess -- you
19 know, journalists unsealing motion -- is in fact resolved
20 and I think a stipulation should be coming to the Court
21 today that we second the, what I'll call, the family
22 privilege motions to which the debtors are not party.
23 Obviously, we still have, I guess, seven days left. We'll
24 see where that goes, but for now I think that should be the
25 totality of the docket for the extra final 2020 hearing.

1 The Court (indiscernible)

2 MS. ECKE: Excuse --

3 MR. HUEBNER: But -- I'm sorry. Please, ma'am.

4 MS. ECKE: Excuse me, Your Honor. This Maria
5 Ecke. And can I just ask you some questions?

6 THE COURT: Well, let Mr. Huebner finish and then
7 you can.

8 MS. ECKE: Oh, okay. Sorry.

9 THE COURT: That's fine.

10 MR. HUEBNER: Your Honor, I was pretty much done.
11 I just wanted to wish everybody a safe and healthy end to
12 the year and holiday season. This has obviously been, you
13 know, particular about as terrible a year as many of us in
14 our lifetimes have seen wrack our society and I just hope
15 that on a personal level, everyone is able to find, you
16 know, safety and a little bit of joy and obviously good
17 health as we roll into a new year that hopefully will bright
18 in every way and the thank many parties for their
19 extraordinary efforts. We still have a couple of large
20 things to get through, but we've gotten through many already
21 and with the Court's guidance we now know that one way or
22 another, you know, unless something very unforeseeable
23 happens, there will be a plan of reorganization filed in
24 these cases in the next weeks and that I think it's
25 (indiscernible). Ms. Ecke, that was all I had to say so I

1 guess I turn the podium back to you.

2 MS. ECKE: Thank you. Your Honor, as you know I
3 want to start a foundation in my late son's honor. Again,
4 since my claim is without prejudice after the restructuring,
5 how do I handle my claim going forward?

6 THE COURT: Well, we don't know exactly because
7 the plan hasn't been filed, but the basic outline of the
8 statement for personal injury claims which is what your
9 claim class would in all likelihood be, contemplates a claim
10 allowance process and then if the claim is allowed, a
11 monetary distribution from a fund that has been negotiated -
12 - and aggregate fund.

13 It is, I think, a given that claims in all
14 likelihood won't be paid in full but it is expected there
15 will be monetary payments. It would be made to the claimant
16 and then the claimant can do whatever he or she wants to do
17 with that money. You can donate to a hospital. You can set
18 up a foundation. You can use it to pay your mortgage. You
19 know, you can use it -- it's up to you at that point after
20 the distribution is made.

21 MS. ECKE: How do you judge what the people are
22 going to say it's worth?

23 THE COURT: Well, that is normally a matter that
24 does not come before the Court. Believe it or not, most of
25 these types of claims in other cases are resolved by

1 agreement because the claim process usually involves
2 experienced people who sort of lay out the law on these
3 types of claims and people hopefully will understand that
4 they're generally pretty objective and they'd rather resolve
5 it than spend the money on a lawyer to fix a higher amount.
6 And a lot depends of what the percentage distribution will
7 be, obviously. If you're getting 5 percent of your claim,
8 you'd much less likely to pay a lawyer than if it looks like
9 everyone is going to get 95 percent of their claim if you
10 dispute the amount.

11 But that's really a matter, again, for the future.
12 But I can tell you that in a lot of the large cases I've had
13 where there have been many, many personal injury claims,
14 it's very, very rare of those claims to be decided -- I mean
15 in a trial -- and in any event, it would be decided by a
16 district judge or a state court judge given a peculiarity of
17 the bankruptcy code dealing with personal injury claims.

18 So that's about all I can say on that point.

19 MS. ECKE: Thank you, Your Honor.

20 THE COURT: Okay. Thank you. All right,
21 everyone. Thank you very much. I know this is
22 (indiscernible) but I really do urge you all to try to wrap
23 up the two remaining large issues in this case between now
24 and the end of the mediation at the end of January.

25 MR. TROOP: Your Honor, this is Andrew Troop.

1 Totally unrelated to the merit meeting, but I don't know if
2 Court Solutions is on the line. I received several emails
3 or texts during the course of the hearing that the debtors
4 listen-only free line went silent for several minutes at a
5 time.

6 THE COURT: All right.

7 MR. TROOP: And so I --

8 THE COURT: Well, I apologize for that. I --
9 there were a lot of people of this line and I'll note there
10 have been some problems recently with the Court Solutions
11 provider depending on the strength of people's internet
12 connection. We'll look into it. But I thank you for noting
13 it.

14 MR. TROOP: I appreciate it, Your Honor. Have a
15 good of year all of you.

16 THE COURT: Okay. Same to you, Mr. Troop. All
17 right, everyone. I'm going to hang up at this point. Thank
18 you all.

19 (Whereupon these proceedings were concluded)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: December 16, 2020