

**AGENDA SUMMARY**  
**GRAND COUNTY COMMISSION**  
**REGULAR MEETING**  
**SEPTEMBER 6, 2022**

Agenda Item:

|                       |   |
|-----------------------|---|
| <b>TITLE:</b>         | Approving the Janssen Opioid Settlement Agreement   |
| <b>FISCAL IMPACT:</b> | Settlement proceeds paid annually to Grand County for 18 years at the same % as specified in the One Utah Opioid Settlement with Distributors |
| <b>PRESENTER(S):</b>  | Christina Sloan, County Attorney  |

Prepared By:

Christina Sloan,  
County Attorney

**FOR OFFICE USE ONLY:**

**Attorney Review:**

Complete  
August 31, 2022

**RECOMMENDATION:**

I move to approve the Janssen Settlement Agreement, authorize the Chair of the Grand County Commission to execute the Janssen Settlement Participation Form, and dismiss Grand County's claims against Distributor Defendant Janssen in the Third Judicial District Court, Summit County Case No. 18050019, *Grand County v. Teva Pharmaceuticals, Inc., et al.*

**BACKGROUND:**

In 2018, along with 26 other Utah counties, the previously named Grand County Council and prior County Attorney Andrew Fitzgerald entered into litigation in the Moab District Court against opioid manufacturers and distributors including Johnson & Johnson and Teva Pharmaceuticals USA for damages caused by their role in the opioid epidemic in Utah. State claims include negligence, products liability, and public nuisance. Grand County's Moab District Court case was later consolidated with similar cases filed by other counties in the Third Judicial District in Summit County.

In 2022, all counties in Utah - except Grand and San Juan County - joined in a settlement with the distributor Defendants. Grand County's % allocation is 0.304% of 50% of the total award, or approximately \$15,000 per year for 18 years. Funding must be spent on opioid remediation uses, as set forth in the One Utah Opioid Settlement MOU.

Because the settlement payment represents a tiny fraction of the damages that Grand County has suffered as a result of the opioid crisis, and because rulings in other similar state cases on preliminary matters favored local government plaintiffs, on November 16, 2021, the Grand County Commission voted not to join the opioid settlement and to proceed to trial in the Moab District Court.

However, as a result of a recent adverse ruling in the United States District Court for the Southern District of Virginia in the consolidated cases of *City of Huntington and Cabell County Commission v. Amerisourcebergen Drug Corporation, et al.*, in July 2022, and based on the recommendation of the County's Opioid Counsel (Phipps Ortiz Talafuse), the Grand County Commission voted to settle with Distributor Defendants McKesson, AmerisourceBergen and Cardinal Health for the settlement % listed above. In that ruling, the Court found that the distributors did not breach their only legal duty owed to plaintiffs - to maintain effective controls against diversion of opioids into illegal markets; that the public nuisance doctrine did not extend to the distribution of opioids; and that the distributors were not the proximate cause of the county's damages.

Similarly, opioid counsel is now recommending Grand County settle with the other Distributor Defendant Janssen, a subsidiary of Johnson & Johnson. The settlement % and structure mirrors that of the Utah One Settlement and will result in a mere pittance being paid to the County. However, given the W.Va. ruling, opioid counsel still recommends settlement.

**ATTACHMENT(S):**

1. Janssen Settlement Agreement
2. Settlement Participation Form
3. Findings of Fact and Conclusions of Law, *City of Huntington and Cabell County Commission v. Amerisourcebergen Drug Corporation, et al* (Available Upon Request)