



## AGENDA COVER MEMO

Memorandum Date: July 24<sup>th</sup>, 2024

Order Date: July 26<sup>th</sup>, 2024

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TO: Board of County Commissioners

DEPARTMENT: Office of Legal Counsel

PRESENTED BY: Marcus I. Vejar, Assistant County Counsel

AGENDA ITEM TITLE: In the Matter of Approving of the Dismissal of Remnant Defendants in the Ongoing Opioid Litigation.

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### I. MOTION

Move to approve the dismissal of remnant defendants Kaiser Foundation Health Plan/Hospitals and Bi-Mart Corporation in the ongoing opioid litigation.

### II. AGENDA ITEM SUMMARY

The Board is being asked to approve the dismissal of the remnant defendants in the opioid litigation case. Lane County is currently engaged in the In Re: National Prescription Opiate Litigation (“Opioid Litigation”). For Oregon, the remnant defendants in this suit are Kaiser Foundation Health Plan/Hospitals and Bi-Mart Corporation (“Remnant Defendants”). This decision needs to be communicated to the counsel representing the Oregon counties by July 29<sup>th</sup>, 2024 so they can move forward with their plan to do so. Choosing not to do so can result in Lane County spending significant resources and should only be refused understanding this risk.

### III. BACKGROUND/IMPLICATIONS OF ACTION

#### A. Board Action and Other History

The opioid litigation cases stem from alleged harm to the state and local governments for the sale, marketing, and distribution of opioids into our communities. Lane County is part of a group of Oregon counties who are represented by Tom D’Amore. The Board of County Commissioners has met with County Counsel in meetings to discuss the progress of this litigation. We need to provide his firm a decision on this issue by Monday, July 29<sup>th</sup>, 2024. For this reason, it would not be advisable to wait on this decision.

B. Policy Issues

This is a decision concerning litigation without any formal administrative policy or objective impacting this decision.

C. Board Goals

This can be related to Objective C of the County's Strategic Priority #4. This decision can potentially involve staff time and resources be focused on pursuing new litigation objectives, so this decision should be considered not only through the lens of what can be successful accomplished through litigation, but if that decision makes sense financially given the County's resources.

D. Financial and/or Resource Considerations

While approving this order would not result in a significant expenditure of resources, a decision not to do so would likely have financial impacts to consider.

E. Health Implications

This order should not have any health implications.

F. Analysis

As this issue involves ongoing litigation and the advice of our outside counsel, implications and concerns shall be discussed in more detail through Executive Session. A decision to dismiss Remnant Defendants will likely not result in significant resources or staff time needing to be invested on top of what is already being done by Mr. D'Amore. A decision to pursue the Remnant Defendants as opposed to dismissing them should be made with the resources Lane County and the Office of Legal Counsel have available.

G. Alternatives/Options

Should the decision be made to not dismiss the Remnant Defendants, than the Board should meet with the Office of Legal Counsel to discuss how to further proceed in pursuing them through litigation. The Board has Executive Session scheduled for Tuesday, July 30<sup>th</sup>, 2024 where any unanswered questions not discussed in Executive Session scheduled for July 29<sup>th</sup>, 2024 can be addressed.

IV. RECOMMENDATION

The Board should approve the dismissal of the Remnant Defendants.

V. TIMING/IMPLEMENTATION

We were informed in a decision should be sent to Mr. D'Amore by July 29<sup>th</sup>, 2024. Upon

approval of the Order, this can occur by the deadline.

VI. FOLLOW-UP

No follow-up should be necessary from the Board. When the Order is signed, the Office of Legal Counsel can communicate the decision to Mr. D'Amore.

VII. ATTACHMENTS

Proposed Board Order Approving Dismissal of Remnant Defendants

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 24 – 07 – 26 - 01

In the Matter of:

Approving of the Dismissal of Remnant  
Defendants in the Ongoing Opioid Litigation

**WHEREAS**, Lane County is currently engaged in the In Re: National Prescription Opiate Litigation (“Opioid Litigation”); and

**WHEREAS**, Lane County has been requested to provide approval for dismissal of the remnant defendants Kaiser Foundation Health Plans/Hospital and Bi-Mart Corporation in the Opioid Litigation; and

**WHEREAS**, the Board of County Commissioners needs to provide authorization for this approval as it relates to litigation Lane County is engaged in.

**NOW, THEREFORE**, the Board of County Commissioners of Lane County **ORDERS** as follows:

1. The approval of the dismissal of the remnant defendants Kaiser Foundation Health Plans/Hospital and Bi-Mart Corporation from the Opioid Litigation is approved. The Office of Legal Counsel shall communicate this approval to Tom D’Amore, outside counsel for Lane County.

**ADOPTED** this 26th day of July, 2024.

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Laurie Trieger, Chair  
Lane County Board of Commissioners