

**Open Work Session**  
**Opioid Litigation Update**  
**August 17, 2021**

Mr. Paul Wilber, County Attorney, and Mr. Andrew Illuminati, Esquire, came before Council. Mr. Wilber said Mr. Illuminati was on the conference call regarding this, so he will give Council the report.

Mr. Illuminati said it made newspapers in the middle of last month that there was a global settlement proposed by the manufacturers and distributors regarding the opioid litigation in which Wicomico County and the States are suing those two entities. He said, following that settlement being proposed, it was presented to the State, and the Attorney General then did a conference call where he presented that settlement and the particulars of that settlement to each of the subdivisions of the State, and a modified copy of that PowerPoint was provided to the Council with the exact specifics. He clarified, that has not been enacted yet. He said this Saturday is 30 days from when that settlement was presented, and the States have to sign on by this Saturday, so at this point there is not any action for Wicomico County to take. He said he checked the Attorney General's website this morning and he has not yet issued a press release stating that Maryland is joining; however, in the conference call, he indicated that he is inclined that Maryland will join the settlement and that he expects a vast majority of the States to opt in. He clarified, that is important because, from this Saturday, September 21 until September 4, the manufacturers and distributors have to decide whether there is sufficient participation. He said, obviously, if Maryland is the only State saying they are going to join this large settlement, the manufacturers and distributors are not going to want to settle with Maryland alone, they are trying to resolve their litigation with all the States, so they will determine whether or not there is sufficient participation. He said, when the manufacturers and distributors decide whether or not there is sufficient participation by September 4, that is when Wicomico County will need to act and determine whether or not they will join in the settlement, and that decision has to be made by January 2, 2022. He said Wicomico County also has specific counsel just for this litigation, so after September 4 when the notice is sent to the subdivisions, if the defendants are going to proceed, then there would need to be a Closed Session with the Council specifically on this litigation as to whether or not Wicomico County should join. He clarified, again, no action is needed today, and they will probably have an update early next week as each Attorney General issues a statement saying they are joining or not joining the settlement, and then around September 4 they will have a notice as to whether or not there is sufficient participation.

Mr. Cannon said the next Council meeting is September 7, so will they need to have a special meeting, or are they looking for a consensus today, or does it have to be a formal Resolution, to which Mr. Illuminati responded, September 7 will not impact the Council having to make a decision. He said the County at that point will be on notice as to whether or not the defendants have expressed that there is sufficient participation. He said, if they say there is not sufficient participation, then the litigation continues on the current track. He said, if they say there is sufficient participation, then each of the subdivisions will receive notice and at that point the toll on the timeline will begin to run. He clarified, the County will have about 120 days to make the decision on whether to join the settlement or not, so they are still early in this stage.

Mr. Dodd asked when Mr. Illuminati will come back for another update, to which Mr. Illuminati responded, after September 4 he would like to speak with the Council to see if they have a

recommendation on how they would like the County to proceed, and what their explanation is for that. He said, then at that point they would schedule a Closed Session based on Council's availability.

Mr. Dodd asked if the September 7 meeting is sufficient, to which Mr. Illuminati responded, no, he does not. Mr. Dodd said their next meeting is September 21, so is that sufficient, to which Mr. Illuminati responded, in his belief, yes, but he will leave it to outside counsel to decide if they could be present for a Zoom meeting at that time. Mr. Dodd clarified, it would be a Zoom meeting, to which Mr. Illuminati responded, there are legal costs involved, and part of the proposed settlement involves a separate bank set aside just for litigation costs, but this firm is based out of Texas, so for that person to come here in person would be just additional cost. Mr. Dodd clarified, he thought it would just be Mr. Illuminati giving the update, to which Mr. Illuminati responded, he can give the update, but if outside counsel feels that only he could articulate the ins and outs of the litigation, he would defer to his decision.

Mrs. Hurley asked if the County has to make a decision whether or not they are going to join the State with their settlement, to which Mr. Illuminati responded, if the defendants believe there is sufficient participation, yes, but they will not have that answer until September 4. Mrs. Hurley then asked Mr. Illuminati to go over what the settlement is.

Mr. Illuminati said there is a formula that determines exactly how all of the billions of dollars will be split up. He said it was a combination of population, overdoses, fatalities, expenses incurred, and things of that nature. He clarified, though it is two separate pieces of litigation, it is under one umbrella, so there are the three major distributors and then there is the Johnson and Johnson manufacturer. He said, if sufficient participation is deemed by the defendants, whether Wicomico County joined or not, there is a minimum from the distributors of \$266 million dollars and from the manufacturer a minimum of \$41.22 million dollars, but those numbers can go up depending on the number of subdivisions that join. He clarified, that is more intricate and laid out in the packet, but the distributor settlement with 100 percent participation from the subdivisions can actually reach \$411 million dollars and from the distributors can reach \$91 million dollars.

Mr. Hastings asked, what is the ballpark estimate of what could potentially come to the County if they go forward with this, to which Mr. Illuminati responded, that is unknown. Mr. Wilber added, it is too early. Mr. Illuminati said there was a State law passed to create a specific fund so that any opioid settlement would go into this fund, and the parts of the settlement require that the States cannot use the money, for example, to build another span of the Bay Bridge. He said, with this opioid fund, any proceeds from the settlement go into it, and any interest that accrues stays within the opioid fund and can only be spent on abatement of the opioid epidemic. He said, within that law, 85 percent of the settlement was to go to the State for its discretion in how to abate, and 15 percent was allocated for the subdivisions; however, how much of the 15 percent each subdivision would receive is unknown, so he thinks that is something where it is either going to be an act by the Legislature in which the Lower Shore Delegation would be instrumental in determining how much Wicomico County would receive, or it would be through action by Governor Hogan's office, in which case making sure that Wicomico County's needs for future abatement are adequately expressed as part of that 15 percent.

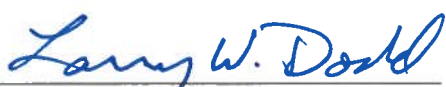
Mrs. Hurley asked if that includes municipalities as well, to which Mr. Illuminati responded, correct, but to say how much of the 15 percent of that number Wicomico County or Salisbury City would get is unknown because it is not part of any law at this time.

Mr. Andrew Mitchell said he sat in on the conference call and the initial presentation and there was a lot of pushback from the big Counties, the populated Counties, and the big Cities too as to how much was going to come, and they did not quite say this, but why should they be getting any. Mr. Dodd asked, do they all want a big pot, to which Mr. Mitchell responded, yes.

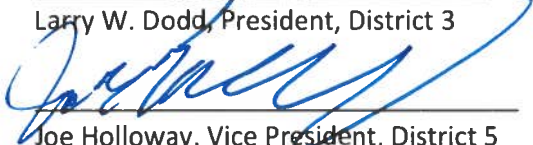
Mr. Wilber clarified, this is an update, and they are not even close to any final numbers to talk about.

Mrs. Hurley asked, if there is enough participation and the County decides to join the State settlement, does that mean the County has to drop their current case, to which Mr. Illuminati responded, very likely, yes. Mr. Mitchell said that was his understanding as part of the settlement, and the bonuses are based on how many municipalities and Counties all join in, the more the merrier, and the sooner the better.

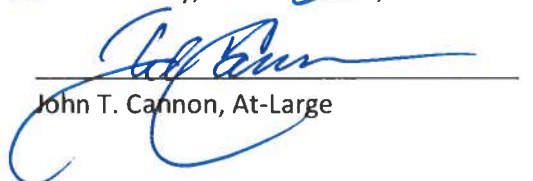
There was no further discussion.



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Joe Holloway, Vice President, District 5



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William R. McCain, At-Large



Ernest F. Davis, District 1



Nicole Acle, District 2



Josh Hastings, District 4



Laura Hurley, Council Administrator