

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**IN RE: EpiPen (Epinephrine
Injection, USP) Marketing,
Sales Practices and Antitrust
Litigation**

MDL No: 2785

Case No. 17-md-2785-DDC-TJJ

(This Document Applies to All Cases),

ORDER REAPPOINTING DEFENDANTS' LIAISON COUNSEL

On April 30, 2018, the court accepted Brian C. Fries's resignation as defendants' liaison counsel and terminated his appointment to that role. Doc. 491. The court advised that it intended to address the topic of appointing new liaison counsel or eliminating the position at the May 9, 2018 status conference. Before that conference, Mr. Fries submitted a letter to the court on behalf of all defendants. The letter asserted defendants' belief that no need exists for defendants' liaison counsel. It explained that the defense side of the MDL's caption includes only two groups of defendants represented by a total of five law firms. Defendants asserted that the number of attorneys involved is not an unmanageable one. And they explained that each firm can designate one lawyer as the point of contact to facilitate communications among defendants. But defendants suggest, if the court still desires to appoint a formal liaison counsel for defendants, that the court appoint Philip A. Sechler of Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP.

At the May 9 conference, defendants reiterated their position that no need exists for the court to reappoint defendants' liaison counsel. Defendants explain that defense counsel is working well together. And they contend they are communicating just as well now as they were

before the court terminated Mr. Fries's appointment as defendants' liaison counsel. At the same time, defendants recognize that reappointment of liaison counsel presents no significant change to the status quo. So, reappointment imposes no substantial overhead cost to defendants.

The court appreciates defendants' candor when addressing this issue. And it understands their position that no need exists for the court to reappoint defendants' liaison counsel. Nevertheless, the court finds value in designating a single attorney to serve in this role. That attorney will act as the point of contact for the parties and the court, providing certain efficiencies and accountability to help the court resolve the collected cases effectively and fairly. And reappointment of defendants' liaison counsel imposes no significant burden on defendants because, they concede, they are operating now much like they were when Mr. Fries was serving as defendants' liaison counsel.

Therefore, at defendants' suggestion, the court appoints Philip A. Sechler of Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP as liaison counsel for all defendants. The court also orders the following:

- Defendants' liaison counsel is designated as the counsel for all defendants in all cases upon whom others must serve all notices, orders, pleadings, motions, discovery, and memoranda.
- Defendants' liaison counsel is authorized to: (a) receive orders, notices, correspondence, and telephone calls from the court and the clerk of the court on defendants' behalf; (b) prepare and transmit copies of such orders and notices on defendants' behalf; and (c) receive orders and notices from the Judicial Panel on Multidistrict Litigation.

- Defendants' liaison counsel shall maintain complete files with copies of all documents served and make such files available to all defendants' counsel on request.

IT IS SO ORDERED.

Dated this 15th day of May, 2018, at Topeka, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge