

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re

MALLINCKRODT PLC, *et al.*,

Debtors.

Chapter 11

Case Nos. 20-12522 (JTD), *et seq.*

**NOTICE OF FILING ANNUAL REPORT FOR IERP TRUST FOR 2022**

PLEASE TAKE NOTICE that the Independent Emergency Room Physician Trust (IERP), by its undersigned attorneys, files the attached 2022 IERP Trust Annual Report.

Dated: April 29, 2023  
Wilmington, Delaware

Respectfully submitted,

HILLER LAW, LLC

/s/ Adam Hiller

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-and-

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## **Annual Report for Independent Emergency Physician Trust**

The Opioid Master Disbursement Trust II (the “MDT II”) was created out of the bankruptcy cases of Mallinckrodt PLC and certain of its subsidiaries (“Mallinckrodt”) (In re Mallinckrodt PLC, Case No. 20-12522 (JTD) (Bank. D. Del.)). The MDT II trust was created to provide distributions (from funds to be paid by Mallinckrodt and other consideration received pursuant to the Mallinckrodt plan) to the public and private creditor trusts and to holders of allowed Class 9(h) Other Opioid Claims.

One of the Trusts created by the Bankruptcy Court related to the Chapter 11 reorganization, funded by the MDT II Trust, is the IER Physicians Trust. The IERP Trust is designed to provide financial resources, through a claims process, to IER Physicians who can demonstrate they were financially damaged in treating Opioid abuse and misuse cases. The funds from this Trust can only be used for abatement purposes. The approved abatement purposes are identified in the Trust Document IER Physicians Trust Distribution Plan (TDP).

More information about the Trust, including important documents, and answers to frequently asked questions, can be found on the Trust’s website: <https://www.ierptrust.com>.

### **Part 1: Pre-Emergence Distribution April 19, 2022 – June 16, 2022**

Opioid MDT II Initial Pre-Emergence Distribution of \$50,000.00 was received on April 19, 2022. The IERP Trust has undertaken the activities necessary to ensure efficient functioning since receiving the funds. The Trust established a banking relationship with ServisFirst Bank, implemented internal controls, hired consultants and vendors, established IERP emails, began development of a website and hired consultants and vendors.

## **Part 2: Initial Activities**

Upon inception, the Trust has undertaken the activities necessary to ensure efficient functioning. The Trust has established a banking relationship, implemented internal controls, hired advisors and vendors, developed noticing and claims process and distribution procedures, created the IER Physician Trust website web site and has developed an initial budget to support these endeavors. Professional retentions include:

- Attorney Paul S. Rothstein & Associates (General Counsel)
- CPA / Bookkeeper & Tax Preparer
- Aon Professional Services
- Berkshire Insurance Provider (D&O Liability Insurance)
- The Southern Group Consulting Services
- Simlow Software, LLC. – Web Developer and Technical Support
- Administrative Assistance
- Multi-View Marketing Consultants

## **Part 3: Financial Update of the IER Physician Trust**

On June 1, 2022, the remainder of the trust funds for the IERP Trust (\$4,450,000.00) were disbursed bringing the total disbursement amount to \$4,500,000.00. Funds have been disbursed as follows:

- \$900,000.00 in attorney's fees which included the 5% for the Common Escrow Fund
- \$225,000.00 of the \$900,000.00 to the Common Escrow Fund
- Funds available for claims and trust operations - \$3,600,000.00.

## **Investments and Accounts**

### **Money Market Account**

\$500,000.00 was invested in a Money Market Account and has earned \$1,739.29 in interest (3.9 % annualized). The balance as of December 31, 2022, is \$501,739.29.

### **Checking Accounts**

Trust money is in an account with ServisFirst Bank in Charleston South Carolina where the Trustee resides. As of December 31, 2022, it had a balance of 2,745,124.17. With the money market account at \$501,739.29, that leaves \$3,246,985.66 of available funds. Additional expenses include purchasing insurance, office management and supplies, banking charges, and compensation and expenses of Trust Advisory Committee members and the IER Physicians Trust Trustee.

## **Financial Statements and Balance Sheet**

**Financial Statement**

<b>Mallinckrodt Opioid Independent Emergency Room Physician Trust</b>	
<b>YTD Revenue and Expense</b>	
<b>January to December 31, 2022</b>	
<b>Income</b>	
<b>Distribution to IERP Trust*</b>	<b>3,600,000*</b>
Interest Income	1,739
<b>Total Income</b>	<b>3,601,739</b>
<b>Expense</b>	
TAC & Trustee Expenses & Fees	222,797
Bank Service Charges	195
Insurance Expense	12,000
Professional Fees – Legal/Consulting/Accounting	102,100
Office Management & Supplies	3643
Tech Support/Website	14,013
<b>Total Expense</b>	<b>354,754</b>
<b>Balance Remaining</b>	<b>3,246,985</b>
*Bankruptcy Attorneys Fees including 5% for Common Benefit Escrow (\$225,000.00) incurred prior to the establishment of the trust (\$900,000)	

<b>Mallinckrodt Opioid Independent Emergency Room Physician Trust</b>	
<b>Balance Sheet</b>	
<b>As of 12/31/22</b>	
<b>ASSETS</b>	
Checking/Savings	
ServisFirst Bank	2,745,246.35
Total Checking/Savings	2,745,246.35
Money Market Account	501,739.29
Total Other Current Assets	501,739.29
Total Current Assets	3,246,985.64
<b>TOTAL ASSETS</b>	<b>3,246,985.64</b>
<b>LIABILITIES &amp; EQUITY</b>	
Equity	
Retained Earnings	3,246,985.64
Total Equity	3,246,985.64
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>3,246,985.64</b>

<b>Mallinckrodt Opioid Independent Emergency Room Physician Trust</b>	
<b>Trustee: Michael L. Masiowski</b>	
<b>Statement of Cash Flows, Jan - Dec 22</b>	
<b>OPERATING ACTIVITIES</b>	
Net Income	\$(1,253,014.36)
Adjustments to reconcile Net Income to net cash provided by operations:	
Money Market Account - Servis	\$(501,739.29)
Net cash provided by Operating Activities	\$(1,754,753.65)
<b>FINANCING ACTIVITIES</b>	
Retained Earnings	\$4,500,000.00
Net cash provided by Financing Activities	\$4,500,000.00
Net cash for period	\$2,745,246.35
<b>Cash at end of period</b>	<b>\$2,745,246.35</b>

**Part 4: Statement of Operations**

<b>Total Revenue</b>	<b>\$4,501,739.00</b>
MDT II Disbursement	\$4,500,000.00
Interest on Investment	\$ 1,739.00
<b>Legal Fees Incurred Prior to Effective Date</b>	<b>\$900,000.00</b>
5% to Common Benefit Fund	\$225,000.00
Bankruptcy Legal Representation	\$675,000.00
<b>Total Operating Expenses</b>	<b>\$ 354,754.00</b>
TAC & Trust Expenses & Fees	\$ 222,797.00
TAC & Trust Expenses Categorized as Follows (rounded):	
TAC Development of Noticing & Claims Process	\$ 70,000.00
TAC Meetings	\$ 75,000.00
Trustee/Claims Administrator Functions	\$ 77,797.00
Professional Fees	\$ 116,113.00
Office Management	\$ 3,643.00
Claims Disbursements (Claims Deadline Not Until 2023)	\$ 0
<b>Balance Remaining</b>	<b>\$3,246,985.00</b>

## **Part 5: Noticing, Responses and Claims Activities**

### **Initial Noticing, Responses, and Claims**

From June 17, 2022 to year end, notices were sent via certified mail to all entities who voted, as provided by Prime Clear/Kroll, as to whether or not to approve the IERP Trust Agreement and Trust Distribution Procedures (attachments to the MDT II). Emergency Physician Groups and attorneys representing them were sent notices via certified mail as well. Overall response rate was 73%.<sup>1</sup>We received multiple responses from potential claimants. Further evaluation showed that a number of individuals that replied were not Independent Emergency Room Physicians thus not eligible under the terms of the trust. From the initial noticing and responses, 3.7% (2 eligible claimants) are currently in the claims process.

### **Subsequent Noticing Program & Responses**

Additionally, a mass email notification was created and sent to emergency room physicians belonging to the professional organization, American Academy of Emergency Medicine. Approximately 20 thousand people received the email. Of that 20,000, we confirmed that 86% reviewed the email. Of that 86%, a substantial number clicked through to the IERP Physicians Trust website (over twice the industry standard). As of December 31, 2022, the noticing program is on-going.

### **The Claims Process and Disbursement**

The Trust had no existing process by which eligible independent emergency room physicians could apply for abatement distributions. During the period of June through August 2022, the 2-step claims process was developed. From that process, claims forms, communications, and

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<sup>1</sup> This comprised a 100% response rate from ER groups and a 33% response rate from individuals.



deadlines for each step were created. That Claims process was incorporated into the Website. No disbursements have been made to date as the deadlines for each step and the claims process are not completed.

The largest portion of the balance of funds remaining will be available for the payment of claims. After implementing a robust noticing program, there are currently two eligible claimants and only one of the two claimants have indicated they will complete the claims process. As such, it is anticipated that there will be unused Trust funds at the conclusion of the claims process.

Pursuant to the IERP Trust TDP, tentative plans are under development by the TAC regarding the use of anticipated remaining funds to implement abatement strategies by independent emergency room physicians starting in South Carolina, where the IERP Trustee resides. Communications have been initiated with South Carolina officials, including the Assistant Attorney General and the South Carolina Department of Alcohol and Other Drug Abuse Services with the assistance of the Southern Group consultants.

**Approval and Signatures**

Submitted by: Michael Masiowski, MD.  
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Signature: \_\_\_\_\_

DocuSigned by:

*Michael Masiowski, T*

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Approved by: Michele Puiggarri  
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*michele puiggarri*

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DocuSigned by:

*susy colvin*

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Date: April 17, 2023



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 29, 2023, I caused copies of the foregoing Notice Of 2022 IERP Trust Annual Report to be served via hand delivery upon:

Jane M. Leamy, Esquire, Trial Attorney Office of the U.S. Trustee 844 N. King Street, Room 2207 Wilmington, DE 19801
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Dated: April 29, 2023  
Wilmington, Delaware

**/s/ Adam Hiller**  
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