

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION ) CASE NO. 1:17-MD-2804  
OPIATE LITIGATION )  
) JUDGE POLSTER  
)  
) BRIEFING ORDER RE  
) PUBLIC RECORD REQUESTS

The Court earlier entered a *Protective Order* (docket no. 167) regarding data produced by the United States Drug Enforcement Administration (“DEA”) related to the Automated Records and Consolidated Orders System/Diversion Analysis and Detection System (“ARCOS”). Paragraph 13 of this *Protective Order* set forth requirements for when Plaintiffs “receive requests for the Designated [Confidential] Information [produced by DEA] under applicable Public Records Laws (‘Public Records Requests’).” *Id.* at 6.

Three Plaintiffs – Cuyahoga County, Ohio; Summit County, Ohio; and Cabell County, West Virginia – recently received Public Records Requests for the ARCOS data they received. The first two of these Requests came from the Washington Post; the third from HD Media Company, which publishes newspapers in West Virginia. *See* docket nos. 603-1, 603-2, 603-3. As provided by the Protective Order, both DEA and the Distributor Defendants have filed objections to any production of the ARCOS data by Plaintiffs in response to these Requests. *See* docket no. 603 (objection by DEA); docket no. 605 (objection by Distributor Defendants). Defendant Manufacturers have stated they also intend to file an objection.

Because these objections raise issues that are likely to recur, and because the Court will rule on this issue only once (to be applied in all similar circumstances), the Court requests briefing on the matter, pursuant to the following schedule.

- June 25, 2018 – briefs opposing disclosure (e.g., by DEA and Defendants). Limit of 15 pages per brief; limit of one brief from all Manufacturer Defendants, one brief from all Distributor Defendants, and one brief from DEA.
- July 9, 2018 – briefs favoring disclosure (e.g., by Washington Post & HD Media).<sup>1</sup> Limit of 15 pages per brief; limit of one brief from Plaintiffs, one brief from Washington Post, and one brief from HD Media.
- If Plaintiffs wish to take a position, they will file one brief, limit of 15 pages, on the same date listed above as the other parties who are taking that position.

As provided at page 7 of the *Protective Order*, pending resolution of DEA’s and Defendants’ objections, “Plaintiffs shall not release any Designated Information without order of this Court.” This injunction continues to apply to any entity who has received ARCOS data via this MDL.

Finally, the Court has been informed that other governmental entities around the country are also receiving Public Records Requests. The Court hereby suspends the obligation of DEA or Defendants to file objections to these requests on the docket, as otherwise required by ¶13 of the *Protective Order*. If any other entities (e.g., other news outlets that have filed Public Records Requests) wish to file position briefs, they may seek leave of Court by contacting Special Master

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<sup>1</sup> Washington Post and HD Media are hereby permitted to intervene for the limited purpose of addressing their Public Records Requests.

Cohen.

**IT IS SO ORDERED.**

*/s/ Dan Aaron Polster*  
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**DAN AARON POLSTER**  
**UNITED STATES DISTRICT JUDGE**

**Dated: June 13, 2018**

