

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION) MDL 2804
OPIATE LITIGATION)
THIS DOCUMENT RELATES TO:) Case No. 1:17-md-2804
) Special Master Cohen
“TRACK ONE” CASES)
) DISCOVERY RULING NO. 9

On Tuesday, October 23, 2018, the undersigned held a five-hour, in-person discovery conference for the purpose of ruling on a variety of discovery disputes. One category of dispute was custodial files—specifically, plaintiffs were demanding production of the custodial files for a number of specific custodians from various defendants, and defendants were balking at producing many of them. The undersigned heard argument for each requested custodian in dispute for each defendant and ruled whether the defendant had to produce the sought-after files.

With regard to defendant Walgreens, as of the morning of the discovery hearing it had agreed to produce files for 21 custodians, but plaintiffs sought production from another 26 individuals. Walgreens then agreed to produce files for another 9 custodians, and Plaintiffs agreed to drop requests for 11 custodians, leaving 6 still in dispute. The Special Master directed counsel for the parties to continue to meet and confer. This led to additional conditional agreement by Walgreens to produce files for another 5 custodians, leaving one in dispute; the condition was that Plaintiffs agree to permanently forego files from legal/compliance officer custodians. The Special Master then ruled on the remaining dispute: (1) Walgreens had to produce files for the remaining custodian (Mr. Crawford) and did not have to produce files for any legal/compliance officer; and

(2) Plaintiffs could later request additional production from “any custodian for any defendant, if further discovery reveals a very high likelihood of additional nonduplicative discovery,” but “the burden [for such additional discovery] is very high, and extremely high for in-house counsel.”

Walgreens then asked the Special Master to formalize this ruling, so that it could object.

This is the requested formal ruling.

RESPECTFULLY SUBMITTED,

/s/ David R. Cohen October 29, 2018
DAVID R. COHEN
SPECIAL MASTER