

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION	)	
OPIATE LITIGATION	)	MDL 2804
	)	
APPLIES TO:	)	Case No. 1:17-md-2804
	)	
<i>County of Summit, Ohio et al. v. Purdue</i>	)	Judge Dan Aaron Polster
<i>Pharma L.P. et al., Case No. 1:18-cv-45090</i>	)	<u>ORDER</u>
	)	
<i>The County of Cuyahoga v. Purdue</i>	)	
<i>Pharma L.P., Case No. 17-OP-45004</i>	)	
	)	
<i>City of Cleveland v. AmerisourceBergen</i>	)	
<i>Drug Corp., Case No. 18-OP-45132</i>	)	
	)	

On November 1, 2018, Manufacturer Defendants filed a Motion for Leave to File a Joint Motion to Dismiss Track 1 Plaintiffs' Claims for Damages Pursuant to Rule 41(b). **Doc. #: 1073.** On November 6, 2018, the Court ordered briefing on Defendants' Motion. On November 12, 2018, Plaintiff filed their Response, Doc. #: 1113, and on November 15, Defendants filed their Reply. Doc. #: 1029. The Court has reviewed Defendants' Motion, Plaintiffs' Response, and Defendants' Reply. For the following reasons, the Motion for Leave is **DENIED.**

Case Management Order One ("CMO-1") was entered on April 11, 2018. Doc. #: 232. It required "No later than, Monday, July 16, 2018, each Plaintiff in cases in Track One that alleges money damages based upon unnecessary prescriptions to identify [various categories of information]." *Id.* at §9.l.iii. It is uncontested that Plaintiffs timely provided Defendants with responses pursuant to what Plaintiffs perceived their obligations to be under CMO-1 §9.l.iii, and

that Defendants subsequently objected to Plaintiffs' responses. The Court believes that since then, the parties have diligently sought, in good faith, a resolution to this discovery dispute starting with Plaintiffs' obligations under CMO-1 and continuing through the filing of the present motion.

The Court sees no substantive difference between the information it ordered Plaintiffs to identify pursuant to CMO-1 §9.l.iii and Manufacturer Defendants' Interrogatory No. 10.¹ Therefore, this dispute was finally resolved by the issuance of the Court's October 16, 2018 Order Regarding Discovery Ruling No. 5. *See* Doc. #: 1047. It is the Court's understanding that Plaintiffs' response to Manufacturer Defendants' Interrogatory No. 10 was provided to Manufacturer Defendants on November 2, 2018, and therefore, Defendants' present Motion is moot.

For the reasons stated, Manufacturer Defendants' Motion for Leave to File a Joint Motion to Dismiss Track 1 Plaintiffs' Claims for Damages Pursuant to Rule 41(b). Doc. #: 1073, is **DENIED.**

IT IS SO ORDERED.

/s/ Dan Aaron Polster November 20, 2018
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

¹ Manufacturer Defendants' Interrogatory No. 10 is the interrogatory from which the Court borrowed the language to craft its October 16, 2018 Order Regarding Discovery Ruling No. 5. *See* Doc. #: 1047 at n.1.