

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION	)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION	)	
	)	JUDGE POLSTER
<i>Applies to Track One Cases</i>	)	
	)	<u>ORDER</u>

This Order documents and clarifies rulings made from the bench during the November 20, 2018 discovery conference with the parties. The Court ruled as follows regarding certain discovery matters in the Track One Cases.

1. By 12:00 noon EST on Nov. 30, 2018, all distributor and retail pharmacy defendants shall respond fully to all discovery seeking information regarding their Suspicious Order Monitoring Systems (SOMS). This discovery includes Plaintiffs (First) Combined Discovery Requests To Distributor Defendants Nos. 2-7, and Plaintiffs (First) Combined Discovery Requests to National Retail Pharmacies Defendants Nos. 2-7. Defendants shall not interpose attorney-client privilege as a reason for not producing discovery of all details of their SOMS. The Court will not allow defendants to rely at trial, in any motion, or for any other reason, upon any evidence of the existence or method of operation of a SOMS that is not produced by this date.

2. Special Master Cohen's *Discovery Ruling No. 7* is modified as follows. By 12:00 noon EST on Dec. 7, 2018, the Track One plaintiffs will produce all opioid-related claims data *not* implicated

by Title 42, Part 2 of the Code (“Part 2”), with individual-identifying information. By 12:00 noon EST on Dec. 18, 2018, the Track One plaintiffs will produce all claims data that *is* implicated by Part 2, de-identified as to individual information. (The de-identified data must be produced in a format permitting cross-referencing, with each patient being assigned a unique identifier.) Finally, CVS will produce the data requested by Plaintiffs to allow claims data production by 12:00 noon EST, Nov. 30, 2018.

3. By 12:00 noon EST on Nov. 30, 2018, plaintiffs will supplement their damages computations by providing their current good-faith estimates of the elements of their alleged damages.

4. By 12:00 noon EST on Dec. 18, 2018, each defendant shall produce to plaintiffs all IQVIA/IMS data related to opioid drugs that the defendant obtained or received between 1998-2018. To the extent that a defendant is no longer in possession of that data, (1) the defendant must ask IQVIA/IMS to repopulate and reproduce that data, and the produce it to plaintiffs; and (2) the defendant and plaintiffs will split 50/50 the cost of this repopulation/reproduction.

5. The parties have until 12:00 noon EST on Nov. 26 to object to Special Master Cohen’s ruling regarding production of Richard Sackler’s and Kathe Sackler’s custodial files.

6. The parties shall continue to adhere to the *Order Regarding Protocol for State and Federal Court Coordination* (docket no. 1029), including provisions governing disputes regarding cross-noticing of depositions. In case of dispute, the parties shall meet and confer for 24 hours. If

resolution is not obtained, at the end of that period the matter shall be presented to Special Master Cathy Yanni, who shall conduct a hearing and provide a decision within 48 hours.

IT IS SO ORDERED.

/s/ *Dan Aaron Polster*

DAN AARON POLSTER

UNITED STATES DISTRICT JUDGE

Dated: November 21, 2018