

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

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION)	CASE NO. 1:17-MD-2804
)	
)	SPECIAL MASTER COHEN
THIS DOCUMENT RELATES TO: <i>“Track One Cases”</i>)	
)	
)	<u>DISCOVERY RULING</u>
)	<u>REGARDING PERSONNEL FILES</u>

Earlier, the parties raised with the Special Master a dispute regarding the extent to which personnel files of deponents would be produced, and the timing of those productions. After the undersigned provided suggestions and directed the parties to continue the meet-and-confer process, the parties came to agreement. Only defendant Discount Drug Mart (“DDM”) objected to the agreement; the Special Master has reviewed that objection and overrules it, especially in light of the fact that all other pharmacy defendants support the agreement. Accordingly, the parties shall adhere to the following agreed-upon protocol, the language of which was supplied by the parties.

Deponent Personnel Files Protocol

With respect to deponents whose depositions have not yet occurred:

1. Defendants will search for personnel files for the employees or former employees whose primary responsibility involved sales, marketing, and/or compliance, including (i) application of FDA regulations and guidance concerning the marketing and promotion of prescription drugs, (ii) Suspicious Order Monitoring, and/or (iii) Anti-Diversion efforts, to the extent reasonably available and to the extent such materials are in it or its affiliates’ possession or custody and can be located after a reasonable search. Defendants agree to provide from such files, to the extent the personnel files contain such materials, documents sufficient to show:

- a. Compensation, except personal tax or banking information;
 - b. Opioid-related bonus or Opioid-related incentive compensation information (and the basis for the award or calculation of the bonus/IC), except personal tax or banking information;
 - c. Opioid-related performance reviews (including self- or peer- reviews) or awards related to opioid sales, Opioid marketing, or legal and regulatory compliance with Opioids-related laws or rules; and
 - d. Discipline records concerning Opioids or compliance with federal or state laws or regulations governing the sale, marketing, or distribution of Opioids.
2. All CT1 Plaintiffs will search for personnel files for the employees or former employees whose primary responsibilities involved Medical Examination, Law Enforcement, or Public Health to the extent reasonably available. All CT1 Plaintiffs agree to provide from such files, to the extent reasonably available and to the extent they can be located after a reasonable search, the following to the extent material contained in the personnel files relates to:
- a. Bonus and compensation information (and the basis for the award or calculation) relating to responsibilities involving drug abuse, addiction, overdose, diversion, or drug related criminal activity, except personal tax or banking information;
 - b. Performance or discipline records relating to responsibilities involving drug abuse, addiction, overdose, diversion, or drug related criminal activity; and
 - c. Records concerning satisfaction of any drug-related arrest quotas.

“Drug-related” and “drug abuse” will not include items specifically relating only to non-Opioid drugs (e.g., cocaine abuse).

Defendants and CT1 Plaintiffs will make all best efforts to complete production at least 72 hours prior to the scheduled start of the deposition.

RESPECTFULLY SUBMITTED,

/s/ David R. Cohen

**David R. Cohen
Special Master**

Dated: November 30, 2018