

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION) MDL 2804
OPIATE LITIGATION)
)
This document relates to:) Case No. 1:17-md-2804-DAP
)
) Judge Dan Aaron Polster
All MDL Tribal Cases (other than the)
Tribal Bellwether Cases))

**PLAINTIFFS' TRIBAL LEADERSHIP COMMITTEE'S MOTION TO
EXTEND DEADLINE FOR TRIBES TO FILE SHORT FORM COMPLAINTS**

The undersigned counsel, in their capacity as members of the Tribal Leadership Committee appointed by Special Master Yanni, bring this motion on behalf of Plaintiffs in all MDL non-Bellwether Tribal Cases¹ (“Tribal Plaintiffs”) and hereby move this Honorable Court for an order extending the deadline to file Tribal Plaintiffs’ “Short Form for Supplementing Complaints and Amending Defendants” pursuant to the Court’s *Opinion and Order* (“*Short Form Order*”) dated 01/18/2019 (*ECF Doc. 1282*). In further support, Tribal Plaintiffs state as follows:

The *Short Form Order* provided all plaintiffs with MDL cases, “other than those identified in paragraphs 2 and 3 of CMO 1,” an extension until March 16, 2019, “to amend their pleadings as a matter of right for matters both relying on and beyond the ARCOS data.” *Short Form Order, ECF Doc. 1282, p. 2*. The procedure set out in the *Short Form Order* allows Plaintiffs to add or remove Defendants based on ARCOS data, and to incorporate by reference the common factual allegations and RICO claims set forth in the pleadings in *County of Summit, Ohio*, case number 1:18-op-45090. *Id.* at 3.

Tribal Plaintiffs intend to utilize the procedure set out by the *Short Form Order*, but respectfully request that their deadline to do so be extended until 60 days after the Court’s final ruling on the pending Motions to Dismiss in the *Muscogee (Creek) Nation* 1:18-op-45459 and

¹ To be clear, this motion does not apply to the two bellwether tribal cases, Muscogee (Creek) Nation 1:18-op-45459 and The Blackfeet Tribe of the Blackfeet Indian Reservation, 18-op-45749.

The Blackfeet Tribe of the Blackfeet Indian Reservation, 18-op-45749 tribal bellwether cases. Tribal Plaintiffs anticipate that the *Short Form Order* will need to be revised to allow the Tribal Plaintiffs, if they choose, to incorporate by reference the common factual allegations and claims set out in the *Muscogee (Creek) Nation* and *Blackfeet* (hereinafter “Tribal Bellwether”) Complaints.

The claims and factual allegations contained within the Tribal Bellwether Complaints are more appropriate for incorporation by reference by Tribal Plaintiffs than those in the *Summit County* Complaint. The Tribal Bellwether Complaints include different claims, factual allegations, and legal issues than the *Summit County* complaint – e.g., *Blackfeet* pled federal common law public nuisance, whereas *Summit County* did not; in the Motions to Dismiss, the Tribal Bellwethers, as sovereigns, have different standing arguments than Summit County; and as Tribes, there are factual allegations and arguments regarding the tribal healthcare delivery system, including the role of Indian Health Services (“IHS”), that are unique to Tribes. Therefore, it is more appropriate that the Tribal Plaintiffs incorporate the claims and allegations from the Tribal Bellwether complaints, rather than trying to shoehorn the *Summit County* claims and allegations into the Tribal Plaintiffs’ Complaints.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Motion to Extend the March 16, 2019 deadline for Tribes to File Short Form Complaints to 60 days after the Court issues its final ruling on the pending Tribal Bellwether Motions to Dismiss, and to stay the Tribal Plaintiffs’ deadline to file their Short Form Complaints while the briefing of this motion is pending. For the Court’s convenience, Plaintiff has attached a proposed order as Exhibit A.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on 14th day of March, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtain through, the Court CM/ECF Systems.

s/ Timothy Q Purdon

Timothy Q. Purdon