

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION ) MDL 2804  
OPIATE LITIGATION )  
 ) Case No. 1:17-md-2804  
THIS DOCUMENT RELATES TO: )  
 ) Judge Dan Aaron Polster  
*All Cases* )  
 ) ORDER RE PENDING MOTIONS

The Court is aware that there are several motions that have been addressed substantively but remain pending on the MDL docket. This order addresses those pending motions.

Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) was filed by Defendant Pharmacy Buying Association on September 14, 2018. **Doc. #: 977**. In its motion, Pharmacy Buying Association joins and incorporates Distributors Motion to Dismiss the Muscogee (Creek) Nation's complaint. Doc. #: 925.<sup>1</sup> Magistrate Judge Ruiz recommended that Distributors motion be granted-in-part and denied-in-part. Doc. #: 1499. The Magistrate Judge's April 1, 2019, Report & Recommendation was adopted-in-part and overruled-in-part by the Court's June 13, 2019 Opinion and Order. Doc. #: 1680. Thus, for the reasons stated in the Magistrate Judge's R&R and the Court's Opinion and Order, Pharmacy Buying Association's Motion to Dismiss, Doc. #: 977 is **GRANTED-IN-PART AND DENIED-IN-PART** to the same extent as Distributors' Motion to Dismiss. Doc. #: 925.

Defendant GCP Pharma, LLC's Motion to Dismiss was filed on September 26, 2018. **Doc. #: 998**. In its motion, GCP Pharma also joins and incorporates Distributors Motion to Dismiss the Muscogee (Creek) Nation's complaint. Doc. #: 925. As described above, for the reasons stated

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<sup>1</sup> Pharmacy Buying Association's Motion refers to Doc. #: 49. This is the same document as cited above, but on the member case docket (18-op-45459) instead of the main MDL docket (17-md-2804). For ease of reference, the Court will only cite to the main MDL docket entry numbers.

in the Magistrate Judge's R&R and the Court's Opinion and Order, GCP Pharma's Motion to Dismiss, Doc. #: 998 is **GRANTED-IN-PART AND DENIED-IN-PART** to the same extent as Distributors' Motion to Dismiss. Doc. #: 925.

Motion to Dismiss First Amended Complaint by Defendant Olympia Pharmacy was filed on October 12, 2018. **Doc. #: 1038**. In its motion, Olympia Pharmacy joins and incorporates Pharmacies' Motion to Dismiss the Muscogee (Creek) Nation's complaint. Doc. #: 928. In the R&R, Magistrate Judge Ruiz also recommended that Pharmacies motion be granted-in-part and denied-in-part. Doc. #: 1499. Thus, as described above, for the reasons stated in the Magistrate Judge's R&R and the Court's Opinion and Order, Olympia Pharmacy's Motion to Dismiss, Doc. #: 1038 is **GRANTED-IN-PART AND DENIED-IN-PART** to the same extent as Pharmacies' Motion to Dismiss. Doc. #: 928.

Finally, H.D. Smith Holdings, LLC and H.D. Smith Holding Company's Motion to Dismiss Second Amended Complaint for Lack of Personal Jurisdiction was filed on October 2, 2018. **Doc. #: 1015**. On August 20, 2019, Plaintiffs in the *Track One* case and the H.D. Smith Holding Companies jointly moved to dismiss the two holding companies from the Cuyahoga County case (17-op-45004). Doc. #: 2496. On August 21, 2019, the Court granted the parties joint motion to dismiss. Therefore, H.D. Smith Holdings, LLC and H.D. Smith Holding Company's Motion to Dismiss, Doc. #: 1015 is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

/s/ Dan Aaron Polster September 23, 2019  
**DAN AARON POLSTER**  
**UNITED STATES DISTRICT JUDGE**