

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION )	CASE NO. 1:17-MD-2804
OPIATE LITIGATION )	
)	JUDGE POLSTER
THIS DOCUMENT RELATES TO: )	
“All Cases” )	
)	<u>ORDER REGARDING</u>
)	<u>PLAINTIFF FACT SHEETS</u>
)	<u>AND SERVICE OF PROCESS</u>

On October 6, 2022, the Court entered an Order directing “all governmental plaintiffs to re-serve their PFS [Plaintiff Fact Sheet] no later than Friday October 14, 2022,” by emailing their PFS to MDL Plaintiffs’ Liaison Counsel. Order at 1 (docket no. 4664).<sup>1</sup> These re-served PFSs are now collected in a “PFS Repository.” *Id.* The Court’s review of the PFS Repository shows it currently holds about 2,400 PFSs.

The Court also recently entered Orders addressing certain “Non-Litigating Defendants” (“NLDs”). *See* docket nos. 4380, 4670.<sup>2</sup> During conference calls, some NLDs have asserted that numerous plaintiffs have not served them with process and/or have not produced a PFS, as required. The Court concludes it may be appropriate to dismiss MDL cases based on a subdivision-plaintiff’s failure to serve a PFS to the PFS Repository, and/or dismiss claims brought against a NLD based

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<sup>1</sup> The Court’s original *Fact Sheet Implementation Order* requiring each Plaintiff to provide a PFS is at docket no. 638. *See also* docket no. 3795 at 2 (re-affirming the PFS requirement for Non-Participating Subdivisions).

<sup>2</sup> As used in this Order, “Non-Litigating Defendant” refers to any defendant family listed in docket no. 4380 or docket no. 4670.

on a subdivision-plaintiff's failure to obtain timely service of process on the NLD, absent good cause. Accordingly, to make this issue ripe, the Court **ORDERS** as follows. Each NLD that wishes to do so may file on the MDL docket, on or before January 30, 2023, a list showing all plaintiff-subdivisions that named the NLD in an MDL case, but the plaintiff: (1) did not serve a PFS to the PFS Repository; and/or (2) did not obtain timely service of process. These lists should be in the format shown in the exemplar at the end of this Order. In addition to filing the list on the MDL docket, each NLD shall also email its list in Excel format to Plaintiff's Liaison Counsel (for distribution to plaintiffs) and to Special Master Cohen.

The Court further **ORDERS** all plaintiff-subdivisions listed in any of the NLDs' lists to file, on or before February 27, 2023, an omnibus document showing good cause why the listed cases or claims should not be dismissed without prejudice. Each NLD may file an omnibus response on or before March 20, 2023.

**IT IS SO ORDERED.**

*/s/ Dan Aaron Polster*  
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**DAN AARON POLSTER**  
**UNITED STATES DISTRICT JUDGE**

**Dated:** January 3, 2023

*[see next page]*

*Exemplar List Format:*

**Defendant Name:** ABC Pharmaceuticals

<b>Subdivision Name</b>	<b>MDL Case No.</b>	<b>No PFS in Repository</b>	<b>No Service of Process</b>
Blackville, AZ	19-OP-99999	X	X
White County, CA	18-OP-88888	X	
City of Redville, MI	17-OP-77777		X
Greenville, RI	20-OP-66666	X	X