

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO:

PBM Cases

) MDL 2804

) Case No. 1:17-md-2804

) Judge Dan Aaron Polster

) **THIRD ORDER REGARDING**
) **ADDITIONAL PBM BELLWETHER**
) **CASE**

On September 23, 2024, the Court set forth a bellwether selection process to select a replacement PBM bellwether case. *See First Bellwether Replacement Order* (docket no. 5646). On November 5, 2024, because neither party fully complied with the First Bellwether Replacement Order, the Court issued a Second Bellwether Replacement Order that: (1) rejected the PBMs' assertion that there were no cases that could serve as meaningful bellwethers, and (2) set new deadlines for the bellwether selection process. *See Second Bellwether Replacement Order* at 2–3 (docket no. 5736). On November 12, 2024, as required by the Second Bellwether Replacement Order, the PBMs made the required two picks but also included a Statement Regarding Replacement Bellwether Selection where the PBMs asserted there were only three cases from which they made their selections. *See* docket no. 5748 at 6. On November 13, 2024, the Court held a videoconference with the PEC and PBMs to discuss the ongoing issues with the PBM bellwether selection process.

The PBMs assertion that there are only three potential bellwether cases is incorrect. The PEC's November 8 list (docket no. 5742-1) complies with the Court's Second Bellwether

Replacement Order and contains 24 different plaintiffs across 7 unique cases from which the PBMs may make their two bellwether selections.¹

Accordingly, at the request of the PBMs so they may consider all of the cases on the PEC's November 8 list, the Court hereby sets the following deadlines to finally conclude the PBM bellwether selection process.

On or before **3:00 PM, November 18, 2024**, the PBMs shall jointly file a document either: (1) reconfirming their November 12, 2024, selection of two potential bellwether cases; or (2) selecting different potential bellwether cases from the November 8 list supplied by the PEC.

On or before **3:00 PM, November 21, 2024**, the PEC shall file a document striking one of the PBMs' two picked cases.

On or before **3:00 PM, December 5, 2024**, the parties shall submit a joint proposed case management order for the new bellwether case.

As in its previous order, the Court remains prepared to choose a replacement bellwether case should the above process yet again fail to yield a bellwether pick.

IT IS SO ORDERED.

/s/ Dan Aaron Polster November 13, 2024
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

¹ The unique cases on the PEC's list are: 1:19-op-46151; 1:23-op-45003; 1:19-op-45843; 1:19-op-45852; 1:23-op-45001; 1:19-op-45236; and 1:23-op-45006.