

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	JUDGE POLSTER
)	
)	<u>CASE MANAGEMENT ORDER</u>
)	<u>NUMBER FOUR</u>

In CMO-1, the Court set forth a briefing schedule for motions to dismiss in several MDL cases. See docket no. 232 at ¶2, pp. 2-5. The Court now adds to and amends this schedule as set out below, and also adds several overriding provisions.

- The deadline for motions to dismiss in *Summit County, Ohio v. Purdue Pharma L.P.*, No. 18-OP-45090 (N.D. Ohio) and *City of Chicago, Illinois v. Purdue Pharma L.P.*, No. 17-OP-45169 is changed to **Friday, May 25, 2018**. Plaintiffs will delete by interlineation, from the most recently-filed complaints in those cases, allegations other than those necessary to add or delete defendants based on ARCOS data.¹
- In paragraph 2.e of CMO-1, the Court stated it would set briefing deadlines for a **third-party payor** case. The Court now sets the following deadlines for *Cleveland Bakers & Teamsters Health & Welfare Fund v. Purdue Pharma L.P.*, No. 18-OP-45432 (N.D. Ohio): (1) an amended complaint shall be filed no later than June 18, 2018; and (2) motions to dismiss shall be filed 35 days thereafter. Paragraphs 2.f - 2.k of CMO-1 apply.

¹ The parties will meet and confer regarding this deletion-by-interlineation, and will work with Special Master Cohen on this topic.

- In paragraph 2.e of CMO-1, the Court stated it would set briefing deadlines for a **hospital** case. The Court now sets the following deadlines for *West Boca Med. Ctr., Inc. v. AmerisourceBergen Drug Corp.*, No. 18-OP-45530 (N.D. Ohio)²: (1) an amended complaint shall be filed no later than June 1, 2018; and (2) motions to dismiss shall be filed 28 days thereafter. Paragraphs 2.f - 2.k of CMO-1 apply.
- In paragraph 2.b of CMO-1, the Court set briefing deadlines for *City of Chicago, Illinois v. Purdue Pharma L.P.*, Case No. 17-OP-45169 (N.D. Ohio) (“*Chicago-I*”). The Court has since learned that *Chicago-I* names as defendants only opioid **manufacturers**; a separate case, *City of Chicago, Illinois v. Cardinal Health, Inc.*, No. 18-OP-45281 (N.D. Ohio) (“*Chicago-II*”), names as defendants opioid **distributors**. Accordingly, the Court now sets the following deadlines for *Chicago-II*: (1) motions to dismiss shall be filed no later than June 6, 2018. Paragraphs 2.f - 2.k of CMO-1 apply.
- By virtue of CMO-1 ¶2.b-c and this CMO-4, the Court has now identified six cases brought by local governmental entities for briefing of motions to dismiss: (1) *Chicago-I*; (2) *Chicago-II*; (3) *Summit County, Ohio*; (4) *Cabell County, West Virginia*; (5) *Monroe County, Michigan*; and (6) *Broward County, Florida*. The Court concludes the following **combined** page limits shall apply to these six cases:
 - (a) defendant-manufacturers may file **motions to dismiss** totaling 150 pages for all six cases; defendant-distributors may file motions to dismiss totaling 150 pages for all six cases; and defendant-pharmacies may file motions to dismiss totaling 100

² The motion to modify CMO-1 (docket no. 405), seeking to override the Plaintiffs’ Executive Committee’s choice of the hospital case, is **overruled**.

pages for all six cases;

(b) plaintiffs may file **response briefs** addressing manufacturers' motions totaling 150 pages for all six cases; addressing distributors' motions totaling 150 pages for all six cases; and addressing pharmacies' motions totaling 100 pages for all six cases; and

(c) manufacturers may file **reply briefs** totaling 90 pages for all six cases; distributors may file reply briefs totaling 90 pages for all six cases; and pharmacies may file reply briefs totaling 60 pages for all six cases.³

- The parties in *Cleveland Bakers* and *West Boca* shall confer with Special Master Cohen regarding page limitations for briefing in those cases.

IT IS SO ORDERED.

/s/ Dan Aaron Polster

DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

Dated: May 22, 2018

³ As an example: manufacturer-defendants may file motions to dismiss that are: (a) 45 pages in *Summit County, Ohio*, (b) 40 pages in *Chicago-I*, (c) 30 pages in *Cabell County, West Virginia*, (d) 20 pages in *Monroe County, Michigan*, and (e) 15 pages in *Broward County, Florida*, totaling 150 pages. The point of this approach is to allow the parties to present overriding arguments, which apply to all six cases, in cases with earlier briefing deadlines. Defendants have agreed to “front-load” their arguments this way.