

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
Track 7)
Track 8) **ORDER REGARDING STAYS AND**
Track 9) **REQUESTS FOR EXTENSIONS OF**
Track 10) **TIME IN CASE TRACKS 7-11**
Track 11)

On April 9, 2021, the Court entered an order identifying five Pharmacy Defendant bellwether cases. *See* docket no. 3688. In the intervening two years, the parties have requested, and largely been granted, multiple stays and extensions of time to facilitate settlement negotiations. *See, e.g.*, docket nos. 4403; 4603; 4617; 4666 (denied); 4771; 4777; 4789; 4795; 4814; 4891; 4901. The most recent such request is found at docket no 4921. Except as set forth below, this motion is **DENIED**.

The Court finds the parties' continuing requests for additional stays in each case is unwieldy and an inefficient use of judicial resources. While the Court appreciates that settlement efforts have been ongoing—and in the case of CVS, Walgreens, and Walmart (hereafter “the Settling Pharmacy Defendants”), have borne fruit—it was always intended that these bellwether cases would run in parallel to their respective settlement tracks, not in series.

Accordingly, the Court now **ORDERS** the following:

- **Track 7**¹ deadlines and briefing obligations are **STAYED** with respect to the Settling Pharmacy Defendants and Meijer until Plaintiff or one of those Defendants moves to lift the stay and such motion is granted.
- **Track 7** deadlines are not stayed and will continue with respect to Kroger. The deadlines set in the *Order Modifying Certain Track 7 CMO Deadlines*, docket no. 4631, remain operative; the only remaining deadlines are:
 - **Thursday, March 9, 2023** – Deadline for responses to *Daubert* and dispositive motions.
 - **Thursday, March 23, 2023** – Deadline for replies in support of *Daubert* and dispositive motions.
- **Track 8**,² **9**,³ and **10**⁴ deadlines and briefing obligations are **STAYED** with respect to the Settling Pharmacy Defendants until Plaintiffs or one of those Defendants moves to lift the stay and such motion is granted.
- **Tracks 8, 9, and 10** deadlines are **TEMPORARILY STAYED** until April 21, 2023, with respect to Albertsons, Kroger, and Publix, at which time the temporary stay will lift and the discovery deadlines set forth below will become effective for *all three* bellwether cases, which will no longer be staggered.
 - **Friday, April 21, 2023** – Parties may serve written discovery.
 - **Friday, April 21, 2023** – Parties may begin scheduling depositions.⁵

¹ Track 7 is *Montgomery County, Ohio Board of County Commissioners, et al. v. Cardinal Health, Inc., et al.*, Case No. 1:18-OP-46326.

² Track 8 is *Cobb County, Georgia v. Purdue Pharma L.P., et al.*, Case No. 1:18-OP-45817.

³ Track 9 is *County of Tarrant, Texas v. Purdue Pharma L.P., et al.*, Case No. 1:18-OP-45274.

⁴ Track 10 is *Durham County, North Carolina v. AmerisourceBergen Drug Corporation, et al.*, Case No. 1:19-OP-45346.

⁵ All deadlines in this Order are subject to prior agreements between the parties. For example, to the extent the parties in Track 8 agreed, when they earlier moved for a stay, that once the stay was lifted there would be no

- **Monday, May 1, 2023** – Depositions may begin.
- **Monday, May 29, 2023** – Document production by all Parties will be substantially completed. Document production leading up to this deadline should occur on a rolling basis.
- **Thursday, June 15, 2023** – Deadline to serve third-party subpoenas.
- **Friday, August 4, 2023** – Close of party fact discovery.
- **Friday, August 4, 2023** – Production of electronic notes and substantial completion of hard copy prescription notes.
- **Monday, August 28, 2023** – Close of third-party discovery.
- **Monday, September 25, 2023** – Plaintiffs shall serve non-abatement-phase expert reports and provide two proposed deposition dates for each expert between **Thursday, October 12, 2023** – **Monday, October 30, 2023**.
- **Thursday, November 30, 2023** – Defendants shall serve non-abatement-phase expert reports and provide two proposed deposition dates for each expert between **Monday, December 18, 2023** – **Thursday, January 18, 2024**.
- **Monday, February 5, 2024** – Deadline for *Daubert* and dispositive motions.
- **Monday, March 4, 2024** – Deadline for responses to *Daubert* and dispositive motions.
- **Thursday, March 21, 2024** – Deadline for replies in support of *Daubert* and dispositive motions.
- **Track 11⁶** deadlines are **STAYED** as to all parties until one of the parties moves to lift the stay and such motion is granted.

additional depositions scheduled – only new dates for depositions already scheduled – that agreement remains in effect.

⁶ Track 11 is *Board of County Commissioners of the County of Santa Fe, New Mexico v. Purdue Pharma L.P., et al.*, Case No. 1:18-OP-45776.

The parties are encouraged to continue diligent efforts toward reaching a global settlement or an inventory settlement of all pending cases. As always, the Court is here to help facilitate those discussions in whatever way it can. Plaintiffs should move to lift the stay in each case as to a Settling Pharmacy Defendant if it becomes clear the settlement in that case with that Defendant will not become effective.

IT IS SO ORDERED.

/s/ Dan Aaron Polster March 6, 2023
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE