

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE SUBOXONE	)	Case No. 1:24-md-3092
(BUPRENORPHINE/NALOXONE)	)	
FILM PRODUCTS LIABILITY	)	MDL No. 3092
LITIGATION	)	
	)	Judge J. Philip Calabrese
This Document Applies to All Cases	)	
	)	

**CASE MANAGEMENT ORDER NO. 23
SCHEDULING OF PROVIDER DEPOSITIONS**

Pursuant to the Court's authority to direct and control the coordinated discovery in this multi-district litigation under 28 U.S.C. § 1407, Rules 16, 26(b), 30, and 45 of the Federal Rules of Civil Procedure, and the Court's inherent authority, and by agreement of the parties, the Court **ORDERS** as follows:

I. Definitions

I.A. Core Discovery Plaintiff

Any individual identified in the Order Identifying the Core Discovery Pool (ECF No. 779).

I.B. Provider

Any healthcare provider who has provided medical and/or dental care to a Core Discovery Plaintiff.

II. Basis

The Court finds that the timely and cooperative participation of Providers in Core Discovery depositions is necessary for the efficient conduct of these proceedings. Any lack of cooperation by Providers offering deposition dates runs the risk of

delaying, obstructing, or frustrating this MDL's progress and unnecessarily increasing the cost of these proceedings.

III. Applicability

The Court sets the following terms and procedures regarding the scheduling of Provider depositions. This stipulated Order is entered to efficiently and timely complete Core Discovery in support of management of this complex litigation, as set forth in the Bellwether Protocol, Second Amended Case Management Order No. 15 (ECF No. 668") and any subsequent orders.

IV. Cooperation with Deposition Scheduling and Appearance

A copy of this Order shall be provided to any Provider a party intends to depose. The parties shall work in good faith to accommodate the availability and schedules of Providers. This shall include willingness to conduct depositions outside normal business hours to the extent necessary. Administrative staff of counsel for the party noticing the deposition will, pursuant to Case Management Order No. 15, communicate with the Provider's office to attempt to secure three potential dates on which the Provider is available to conduct the deposition within the time permitted under the Court's schedule. If the Provider responds within 10 business days with available dates, and opposing counsel confirms availability, the deposition will proceed as agreed.

In the case of a cooperative Provider, the noticing party will issue a Subpoena to Testify at a Deposition in a Civil Action (N.D. Ohio Form AO 88A), along with a copy of Case Management Order No. 5 (Designation and Handling of Protected Information) (ECF No. 84). The noticing party shall provide email notice under Rule

45(a)(4) of the Federal Rules of Civil Procedure to the non-requesting party or parties. Such notices will not be filed on the MDL docket or the individual case dockets for filed cases.

V. Issuing a Provider Subpoena

If, however, the Provider fails to cooperate and does not respond within 10 business days to offer available dates as required above, noticing counsel may issue the Subpoena to Testify in a Civil Action in the form attached to this Order as Exhibit 1 (“Provider Subpoena”). To reduce costs and promote efficiency, service of a Provider Subpoena may be effectuated by email (to a confirmed email address for the Provider, counsel for the Provider, or the facility where the Provider practices), by personal service, or by delivering a copy by U.S. Mail or hand delivery to the Provider’s business address. The noticing party shall provide email notice under Rule 45(a)(4) to the non-requesting party or parties. Such notices will not be filed on the MDL docket or the individual case dockets for filed cases.

Upon receipt of a Provider Subpoena, the below terms apply to the Provider involved in a Core Discovery Plaintiff’s care or treatment:

V.A. Confirming the Noticed Date or Providing Alternative Dates

Within three business days of receipt of a Provider Subpoena, the Provider (or counsel or administrative staff authorized by the Provider) must respond to the noticing counsel to confirm the Provider’s availability to testify on the date in the Provider Subpoena. If the Provider is unavailable on the date noticed, the Provider may respond within three business days by providing no fewer than three available

dates for deposition. The dates offered must be within 30 days of the date listed in the Provider Subpoena.

“Unavailable” as used above means the Provider is truly unable, despite employing diligent best efforts to reschedule existing commitments, to appear for the deposition. Provider depositions in Core Discovery are limited to four hours on the record split evenly between the parties.

V.B Procedural Protections (Fed. R. Civ. P. 45)

A Provider receiving a Provider Subpoena under Paragraph V of this Order will treat the Provider Subpoena as issued in the district where the Provider is located. A copy of Rule 45 is appended to this Order.

VI. Fees

A Provider may charge a reasonable hourly fee for reviewing records and appearing for the deposition. Any fee charged must be commensurate with the hourly rates charged by the Provider for professional services in the normal course of business. The fee may not be used to disincentivize the deposition. The Court may disallow an unreasonable fee. Providers may not require advance payment as a condition of appearance. Following the deposition, the Provider shall submit an invoice to the noticing party along with the Provider’s W-9. Payment of any fees charged will be paid to the Provider by the noticing party no later than 30 days following receipt of the invoice and tax form.

VII. Failure to Comply

The Court finds that it would be an inefficient use of resources to require counsel for the parties to appear for a duly noticed deposition where the Provider has

not responded to confirm appearance in advance. Therefore, should a Provider fail to respond to noticing counsel following receipt of Provider Subpoena, noticing counsel may seek an Order to Show Cause why the Provider should not be held in contempt or subjected to sanctions under Rule 37(b)(2)(A) for failure to comply with a discovery order.

The parties will alert the Court to any non-compliance issues. At the earliest practicable date, the Court will set a hearing at which any and all Providers who do not timely comply with this Order will be required to appear personally before the Court to explain their failure to cooperate in the scheduling of a deposition and to obey this Order. Sanctions may include requiring the Provider to reimburse the cost of counsel for the parties to appear at a hearing on the Order to Show Cause.

VIII. Provider's Duty to Complete or Supplement Records Production

A Provider scheduled for deposition—under either Paragraph IV or V in this Order—shall use his or her best efforts promptly to comply with any outstanding authorization to release records executed by a Core Discovery Plaintiff pursuant to Case Management Order No. 13. (ECF No. 194 or as amended at ECF No. 672.) This obligation exists whether the authorization was delivered to the Provider by a party, a party's counsel, or the designee of a party's counsel.

To the extent a Provider previously complied with a request to release records, the Provider will supplement that request with any subsequent or previously unproduced records at the earliest possible date, but not later than 10 business days before the deposition date (either as agreed under Paragraph IV or as listed in the Provider Subpoena).

IX. Order Remains in Force

This Order shall remain in force and effect until modified, superseded, or terminated by consent of the Parties or by Order of the Court. The Court retains jurisdiction after termination of this action to enforce this Order and to make such amendments, modifications, deletions, and additions to this Order as the Court may deem appropriate.

X. Modifying Order

Nothing in this Order shall be construed to prohibit the Parties from agreeing to modify any provision of this Order or seeking relief from the Court. Nor shall anything in this Order or any Party's compliance with it be construed as a waiver of any Party's rights under applicable law.

SO ORDERED.

Dated: July 16, 2026

A handwritten signature in black ink, appearing to read 'J. Philip Calabrese', is written above a horizontal line.

J. Philip Calabrese
United States District Judge
Northern District of Ohio

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**PROVIDER SUBPOENA
TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION**

To: [Provider]

You are receiving this Provider Subpoena because you have failed to timely respond to counsel per Case Management Order No. 23 to provide potential dates for your deposition in this multi-district litigation.

☒ *Testimony*: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action.

Place:	Date and Time:

The deposition will be recorded by this method: stenographic and video

The deposition is limited to four hours on the record with time to be split equally between counsel for the parties.

Within three business days of receiving this subpoena, you must confirm your availability to the counsel listed below or advise of your unavailability. If you are unable to make yourself available on this date, you must provide three alternative dates to complete the deposition. The alternative dates you offer must be within 30 days of the date above.

Failure to respond to counsel to confirm your availability for the noticed date or provide alternative dates will result in an Order to Show Cause why you should not be held in contempt or subject to sanctions for failure to comply with a discovery order.

☒ *Production:* You must also comply with any outstanding records authorization from any party issued under Case Management Order No. 13. To the extent you have previously produced records in response to a records authorization, you must supplement your prior records delivery with any subsequent or previously unproduced records regarding the Core Discovery Plaintiff's care and treatment.

The provisions of Rule 45(c) of the Federal Rules of Civil Procedure, relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: _____ Attorney Signature: _____

[Attorney's Name]

[Attorney's Firm]

[Attorney's Address]

[Attorney's Address]

[Attorney's Phone]

[Attorney's Email]

Counsel for [Attorney's Client(s)]