

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

IN RE: NATIONAL PRESCRIPTION) CASE NO. 1:17-MD-2804
OPIATE LITIGATION)
) JUDGE DAN AARON POLSTER
)
) ORDER RE: ARCOS/DADS
) DATABASE
This document applies to All Cases.)
)

Prior to the creation of this MDL, the United States District Court for the Southern District of Ohio, Chief Judge Edmund A. Sargus, Jr. presiding, held a pretrial conference on October 30, 2017, in the 19 related opioid cases that were pending before him. At that time, he granted the plaintiffs' request to file a subpoena to be served upon the Drug Enforcement Administration ("DEA") for production of the Automated Records and Consolidated Orders System/Diversion Analysis and Detection System ("ARCOS/DADS") database. Judge Sargus had stayed discovery pending the decision of the Judicial Panel on Multidistrict Litigation ("JPML") whether to create an MDL, and told the DEA not to disclose the database until the JPML's decision and discovery begins. But he expressly wanted to tee the issue up for the judge who would ultimately be chosen to preside over the MDL, if any. *See, e.g., City of Cincinnati v. AmerisourceBergen Corp., et al.*, Case No. 2:17 CV 713, Doc #: 75 at 3-4, 81 at 2.

The Court has reviewed the Notice of Intent to File Subpoena and the DEA's Objections that were filed in *City of Cincinnati*. Respectively, Doc #: 81, 101. Of particular note is the DEA's offer, notwithstanding its objections, "to continue discussions with plaintiffs concerning

the disclosure of ARCOS data consistent with disclosures it has made to other requestors, e.g., state and local government entities.” Doc #: 101 at 9.

The Court hereby **DIRECTS** MDL Plaintiffs and the DEA to meet to see if they can reach agreement on what part of the ARCOS/DADS database the DEA will produce. There is a legitimate need for Plaintiffs to obtain this data, but the Court believes that production must be tailored – perhaps through a protective order – in a way to address the DEA’s concerns regarding breadth, years in question, potential interference in investigations and enforcement actions, and divulging the location of warehouses where opioids are stored.

No later than 12:00 noon on Friday, February 23, 2018, Plaintiffs and the DEA shall file a report detailing their agreement or, if agreement has not been reached, the issues that remain to be resolved. If they are unable to reach agreement, the Court will hold a hearing in Courtroom 18B on Monday, February 26, 2018 at 3:00 p.m. to resolve the matter.

IT IS SO ORDERED.

/s/ Dan A. Polster February 2, 2018
Dan Aaron Polster
United States District Judge