

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

APPLIES TO:

*County of Summit, Ohio, et al. v. Purdue
Pharma L.P., et al., Case No. 1:18-cv-45090*

MDL 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

ORDER REGARDING DISCOVERY RULING #5

Special Master Cohen issued Discovery Ruling #5, Doc. #: 1027, to resolve a discovery dispute between the parties over Plaintiffs' responses to certain interrogatories propounded by Manufacturer and Retail Pharmacy Defendants. Plaintiffs have objected to the Discovery Ruling. Doc. #: 1031. Manufacturer and Retail Pharmacy Defendants filed Responses to Plaintiffs' Objections. Doc. ##: 1043 and 1044.

After reviewing Plaintiffs' Objections and Defendants' Responses, the Court hereby leaves Discovery Ruling #5 in place. However, the Court amends the Ruling as follows: Instead of answering the disputed interrogatories as required by the Discovery Ruling, Plaintiffs may instead elect not to answer them *on the condition* that Plaintiffs instead categorically and affirmatively respond to the disputed interrogatories by stating that: (1) they will not assert, either in expert opinions or factual presentations at trial, that any specific prescriptions "were unauthorized, medically unnecessary, ineffective, or harmful" or that "the filling of [any specific prescriptions]

caused or led to harm for which [Plaintiffs] seek to recover,”¹ and (2) Plaintiffs instead will rely, at trial and in expert opinions, solely on a theory of aggregate proof.

Further, Discovery Ruling #5 set forth recommended deadlines for responding to the disputed interrogatories. Doc. #: 1027 at 6. Given the short time remaining for fact discovery, Plaintiffs are directed to choose whether they will comply with Discovery Ruling #5 or make the aforementioned affirmative statements by **Monday, October 22, 2018**.

IT IS SO ORDERED.

/s/ Dan Aaron Polster October 16, 2018
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

¹ This language is quoted from Manufacturer Defendants Interrogatory No. 10 and Retail Pharmacy Interrogatory No. 3.