

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	DISTRICT JUDGE POLSTER
)	MAGISTRATE JUDGE RUIZ
This document relates to:)	
)	Motion for State Amicus Briefing
<i>State of Alabama v. Purdue Pharma, et al.,</i>)	
Case No. 18-OP-45236)	
)	
)	

MOTION TO PERMIT SHARING OF ALABAMA’S AMENDED COMPLAINT

The State of Alabama respectfully requests this Court permit Alabama to share its amended complaint with other State Attorneys General to coordinate amicus briefing. As detailed below, Defendants do not object to this request, if the Court enters an order that further defines the limits on amicus briefing; limits we detail in paragraph 3. Alabama offers the following in support of its motion:

1. ***CMO 1’s instructions:*** In CMO 1, the Court selected Alabama’s complaint, and Defendants’ corresponding motions to dismiss, as a test case for Plaintiff State issues. *See* Doc. 232 at 3-4 (“CMO 1”). The Court also stated that (a) “State Attorneys General may file amicus briefs” in Alabama’s case and (b) the parties “shall endeavor to coordinate and consolidate briefing on all of the motions to dismiss and avoid duplicative briefing[.]” *Id.* at 4.

2. ***Sharing with State Attorneys General:*** The amicus States need a copy of Alabama’s amended complaint to properly draft an amicus, and several States have requested a copy of Alabama’s amended complaint. But (we believe) Alabama cannot presently comply with those requests because, as ordered, *see* Doc. 406, Alabama filed its amended complaint under seal to

comply with previous protective orders regarding confidential information, *see* Doc. 404-2 (“Chicago protective order”), and ARCOS data. *See* Docs. 167, 400 (“ARCOS order”). While paragraph 6(d) of the ARCOS order permits sharing among “State Attorneys General,” no such provision exists in the Chicago protective order. Instead, paragraph 7(b)(10) requires Alabama to seek an “order of the Court and on such condition as may be agreed or ordered.” Alabama seeks such an order here, and the Defendants have agreed subject to the conditions below.

3. ***Coordinated Briefing:*** Consistent with CMO 1’s order to “consolidate briefing” and “avoid duplicative briefing,” CMO 1 at p.4, Alabama and Defendants agree on the following parameters for the state amicus briefs contemplated by CMO 1:

- a. The non-MDL States may file one consolidated brief of no more than 20 pages on issues related to the manufacturer Defendants;
- b. The non-MDL States may file one consolidated brief of no more than 20 pages on issues related to the distributor Defendant;
- c. Each State amicus brief shall be filed no later than seven days after Alabama responds to the motions to dismiss (presently, making those amicus briefs due on August 3rd);
- d. Defendants’ reply briefs shall respond to both Alabama’s brief and the State amicus brief and shall not exceed 30 pages each; and,
- e. Defendants’ reply briefs shall be filed no later than 28 days after the State amicus briefs are filed (presently, making those amicus briefs due on August 31st).

4. ***Proposed Order:*** Alabama simultaneously files a proposed order that encompasses both (a) the sharing of its amended complaint and (b) the amicus parameters.

CONCLUSION

For these reasons, the Court should enter an order allowing Alabama to share its amended complaint with other State Attorneys General and setting the parameters for state amicus briefing.

Respectfully submitted,

/s/ Corey L. Maze

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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtain through, the Court CM/ECF Systems.

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