

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION) CASE NO. 1:17-MD-2804
OPIATE LITIGATION)
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) JUDGE DAN A. POLSTER
)
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) MAGISTRATE JUDGE DAVID A. RUIZ
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)
) NOTICE OF COMPLIANCE
)

PLEASE TAKE NOTICE that the United States of America received a request for the disclosure of official Department of Justice (“DOJ”) information in the above-captioned case. Specifically, the request asks the Drug Enforcement Administration (“DEA”) to provide 22 years of documents in 37 different categories, the deposition testimony of 15 current and former DEA employees, and Federal Rule of Civil Procedure 30(b)(6) testimony on 24 topics.

Federal regulations govern the disclosure of official information by DOJ employees and prohibit personnel from testifying absent express authorization. 28 C.F.R. § 16.22(a). The United States Supreme Court has long recognized the authority of agency heads to restrict the testimony of their subordinates through regulations. *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). These regulations are called “*Touhy* Regulations.” In the *Touhy* decision, the United States Supreme Court held that a subordinate federal officer could not be found in contempt of court for refusing to produce subpoenaed documents, where his refusal was based on DOJ regulations prohibiting the disclosure of nonpublic documents without authorization of the Attorney General. *Id.* at 466. The Court rejected the contention that the regulation invaded the authority of the Courts to determine the admissibility of evidence. *Id.* at 468.

In this instance, the DOJ has not authorized disclosure of the requested information. The DOJ's decision letter is attached hereto as Government Exhibit A and will be provided to the Court and all of the parties via the Court's electronic filing system.

Respectfully submitted,

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Acting Under Authority Conferred by 28 U.S.C. § 515

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CERTIFICATE OF SERVICE

I certify that, on July 25, 2018, I filed a copy of the foregoing electronically. The Court's electronic filing system will send notice of this filing to all parties. Parties may access this filing through the Court's system.

/s/ James R. Bennett II
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