



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION

Civil Action No. 19-C-9000

THIS DOCUMENT APPLIES TO ALL CASES

**ORDER DENYING WALMART INC. AND WAL-MART STORES EAST, LP'S
MOTION FOR RECONSIDERATION OF THE DISCOVERY COMMISSIONER'S
ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL
WALMART TO PRODUCE INVESTIGATION MATERIALS**

This matter comes before the Discovery Commissioner on *Walmart Inc. and Wal-Mart Stores East, LP's Motion for Reconsideration of the Discovery Commissioner's Order Granting Plaintiffs' Motion to Compel Walmart to Produce Investigation Materials* (Transaction ID 66057510) ("Motion"). Defendants Walmart Inc. and Wal-Mart Stores East, LP ("Walmart") ask the Discovery Commissioner ("Commissioner") to reconsider the findings in his order granting Plaintiffs' motion to compel production of material related to investigations into Walmart's opioid distribution and dispensing practices (Transaction ID 66038539) ("Order"). The Commissioner has reviewed the Motion, *Plaintiffs' Response to Walmart's Motion for Reconsideration of the Discovery Commissioner's Order Granting Plaintiffs' Motion to Compel Walmart to Produce Investigation Materials* (Transaction ID 66082591), and Defendants' *Reply* (Transaction ID 66102740).

Plaintiffs' response points out that the proper method to seek review of an Order of the Discovery Commissioner is by filing an objection within 7 calendar days. *See, Order Appointing Discovery Commissioner* (Transaction ID 64839031). However, Walmart argues the Discovery Commissioner's prior Order invited reconsideration because it required Walmart to inform the Discovery Commissioner what, if any, investigations subject to the prior Order were considered "ongoing," inquire if the DOJ objected to disclosure of the materials ordered to be produced, and because the Discovery Commissioner entered an Order granting a stay (Transaction ID 66050441).

The Discovery Commissioner's required reporting on the status of investigations, as outlined above, should not be considered an invitation to seek reconsideration of the Discovery Commissioner's ruling. The proper method to seek review of an Order of the Discovery Commissioner is by filing an objection. However, recognizing Walmart's confusion on the issue, the Discovery Commissioner did review the *Motion, Response* and *Reply* along with filings provided by the parties. The Discovery Commissioner finds the facts and legal contentions are adequately presented in the materials and oral argument would not aid the decisional process. Therefore, *Walmart's Motion to Present Oral Argument* (Transaction ID 66122309) is **DENIED**.

Upon the full consideration of the issues presented the Discovery Commissioner finds no reason to alter the previously issued *Order Granting Plaintiffs' Motion to Walmart to Produce Investigation Materials* (Transaction ID 66038539). The Motion for Reconsideration is **DENIED** in its entirety.

Entered: November 30, 2020

/s/ Christopher C. Wilkes
Discovery Commissioner