



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 GRANTING DEFENDANTS' MOTION TO COMPEL
PLAINTIFFS' PRODUCTION OF DOCUMENTS**

The undersigned has received and reviewed Defendants' *Motion to Compel Plaintiffs' Production of Documents* (the "Motion") (Transaction ID 65963387), together with all pleadings in response and reply to the instant motion. Having carefully reviewed the parties' position on the Motion, as well as the factual and legal background set forth in the Motion, the Discovery Commissioner now enters the following discovery ruling.

On July 3, 2020, the Discovery Commissioner ordered all Plaintiffs to produce documents responsive to the distributor Defendants' (the "Defendants") document requests by July 31, 2020. *See* July 3, 2020 Order (Transaction ID 65745225). The Discovery Commissioner provided a modest safety valve for documents that could not be feasibly produced by July 31, ordering that each Plaintiff shall make any supplemental document productions "as expeditiously as possible thereafter on a rolling basis until it's production is complete." *See id.* To date, over two months after the July 31 production deadline, Plaintiffs have failed to meet their discovery obligations set forth in the July 3 Order. No Plaintiff has completed its initial productions of documents, and no Plaintiff has provided a date certain for completing its initial productions. The Discovery Commissioner takes into consideration that the trial date in place when the deadlines for compliance were set in the July 3, 2020 Order (Transaction ID 65745225) has been continued until November 1, 2021 (Transaction ID 66016709) but still recognizes the need that vigorous compliance with discovery obligations is mandated.

In spite of the fact that Plaintiffs have failed to meet their discovery obligations set forth in the July 3 Order, it has become evident that some disagreement remains on certain issues concerning the requirement and manner of production previously Ordered (for example ESI search terms and appropriate custodians). the Discovery Commissioner now **GRANTS** Defendants' Motion and **ORDERS** the following:

1. Plaintiffs' and Defendants' shall meet and confer in an attempt to identify appropriate document custodians using criteria based on the Defendants' requests for production, if an agreement cannot be reached a supervised meet and confer will be scheduled when requested by counsel;
2. Plaintiffs' shall search their files — both custodial and non-custodial — for responsive documents, using search terms which the parties agree to, if no agreement can be reached a supervised meet and confer will be scheduled when requested by counsel.
3. Plaintiffs shall be cognizant of their obligation to timely supplement their responses as previously Ordered and complete their productions of all documents responsive to the Defendants' document requests by December 15, 2020.

ENTERED the 19th day of October 2020.

/s/ Christopher C. Wilkes
Discovery Commissioner