



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

**IN RE: OPIOID LITIGATION**

**Civil Action No. 21-C-9000 PHARM**

**THIS DOCUMENT APPLIES TO ALL STATE CASES AGAINST PHARMACIES**

**ORDER REGARDING PLAINTIFF'S MOTION TO OVERRULE CHAIN  
PHARMACIES' GEOGRAPHIC OBJECTIONS TO DISCOVERY**

This matter comes before the Court on Plaintiff's Motion to Overrule the Chain Pharmacies' Geographic Objections to Discovery (Transaction ID 67242091), the Defendants' Responses (Transaction ID 67275142 & 67275203), and Plaintiff's Reply (Transaction ID 67289188). The "Chain Pharmacy" Defendants are CVS Pharmacy, Inc., CVS Indiana, LLC, CVS Rx Services, Inc., CVS TN Distribution LLC, West Virginia CVS Pharmacy LLC (collectively, CVS), Rite Aid of Maryland, Inc., Rite Aid of West Virginia, Inc. (collectively, Rite Aid), Walgreens Boots Alliance, Inc., Walgreen Co., Walgreen Eastern Co., Inc. (collectively, Walgreens), and Walmart Inc. (Walmart).

A hearing was conducted via remote means on February 7, 2022. At the hearing, the parties announced that the Plaintiff has resolved its dispute regarding the geographic scope of discovery with CVS, Rite Aid, and Walgreens. The Plaintiff and Walmart stated that those parties were working towards an agreement regarding the geographic scope of discovery for the border states of West Virginia and therefore requested that the Discovery Commissioner defer arguments on this matter until the next regularly scheduled discovery conference (Friday, 2/11/2022) should it be necessary.

The Discovery Commissioner therefore heard arguments only on the subject of discovery regarding Walmart stores in Florida.

After conducting arguments, the Discovery Commissioner finds that additional information is necessary to decide this matter. The Discovery Commissioner therefore Orders

Walmart to, as soon as practicable, but understanding that Walmart estimates that it will take at least four to six weeks, provide the following information to the undersigned for the time period consistent with the previously produced West Virginia dispensing data:

- The number of prescriptions for Opioids<sup>1</sup> filled by pharmacists at Walmart pharmacies in Florida for patients with West Virginia zip codes;
- The percentage of Opioid prescriptions filled by pharmacists at Walmart pharmacies in Florida for patients with West Virginia zip codes.

In conjunction with this disclosure, the parties will have an opportunity for further briefing and oral argument on the relevance and burden associated with the Florida discovery sought by the State, including (i) whether the dispensing data reflecting prescriptions filled at Florida pharmacies for patients with West Virginia zip codes is relevant to the State's case in West Virginia; (ii) whether any purported relevance is outweighed by the burden of additional third-party defensive discovery regarding those prescriptions, which may be necessary if the discovery is allowed; (iii) the potential impact on the case schedule of this discovery; and (iv) the burden and timing of further work necessary to collect and produce Florida dispensing data.

A copy of this Order has this day been electronically served on all counsel of record via File & ServeXpress.

**IT IS SO ORDERED.**

**ENTERED:** February 10, 2022

Christopher C. Wilkes  
Discovery Commissioner

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<sup>1</sup> Opioids is defined to mean the MDL 8: fentanyl, oxycodone, hydrocodone, hydromorphone, oxymorphone, morphine, methadone, and tapentadol.