



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE SUBOXONE)	Case No. 1:24-md-3092
(BUPRENORPHINE/NALOXONE))	
FILM PRODUCTS LIABILITY)	MDL No. 3092
LITIGATION)	
)	Judge J. Philip Calabrese
This Document Applies to All Cases)	
)	

CASE MANAGEMENT ORDER NO. 4
“SCHEDULE A” COMPLAINT

Since the outset of this MDL, the parties have discussed a tolling agreement in advance of a putative bar date of June 17, 2024 for those States that have a two-year limitations period. Naturally, the parties dispute and reserve their rights to argue for earlier and later filing deadlines in such jurisdictions, as the case may be, but that impending date has driven discussions.

Instead of a blanket or generally applicable tolling period of, say, 60 or 90 days, the Plaintiffs’ Leadership Committee proposed a brief tolling period for clients retained by the bar date to afford counsel time to investigate their claims by, for example, obtaining medical or pharmacy records to substantiate Suboxone use. As outlined in the PLC’s brief on the issue (ECF No. 75), the alternative is a rush of complaints filed in a compressed period of time with vetting that might be reasonable under the circumstances but not of a sufficient quality that would ordinarily meet the standards of federal practice or even an MDL. Aside from the logistical and practical problems resulting from that approach, MDL practice has drawn criticism from defendants for creating a mentality of “if you build it they will come”—meaning a

surge of claims of dubious quality that brings with it coercive market and litigation pressures. Despite these concerns, Defendants in this MDL insist on not waiving their time-bar defenses, as is their right.

The Court and counsel have discussed these issues at status conferences on April 15, 2024 and May 14, 2024, and the Court has considered the parties' respective positions and arguments. (ECF No. 75; ECF No. 76.) To promote the efficient conduct of these proceedings and the convenience of the parties, the Court borrows a procedural innovation from another area of the law and **ORDERS** as follows:

No later than June 14, 2024, the PLC may file a complaint on the master MDL docket (No. 1:24-md-3092) captioned "The Individuals Identified on Schedule A v. Indivior, Inc., *et al.*" A schedule attached to this complaint shall include the following information in the columns of a table or spreadsheet in a separate numbered row for each individual Plaintiff:

1. Plaintiff's first and last name;
2. The first and last name of any consortium Plaintiffs or those with derivative claims;
3. The firm representing each Plaintiff;
4. The location where Plaintiff is a resident and citizen;
5. Plaintiff's designated venue;
6. The location (city and State) where Plaintiff currently resides;
7. The location(s) (city and State) where Plaintiff claims, alleges, or represents that he or she was prescribed Suboxone film; and
8. The location(s) (city and State) where Plaintiff claims, alleges, or represents that he or she used Suboxone film.

With the filing, the PLC shall provide a copy of Schedule A in its native format to Defendants and the Court.

By July 1, 2024, Defendants may file a motion to sever pursuant to Rule 21. After the filing of the motion, the Court will set a briefing schedule with the expectation that those Plaintiffs whose claims are severed will (1) file separate individual actions, which will be a continuation of the original suit filed in the MDL, *see Elmore v. Henderson*, 227 F.3d 1009, 1012 (7th Cir. 2000); *see also Kitchen v. Heynes*, 802 F.3d 873, 874–75 (6th Cir. 2015); *DirectTV, Inc. v. Leto*, 467 F.3d 842, 845 (3d Cir. 2006); *Corley v. Google, Inc.*, 316 F.R.D. 277, 293–95 (N.D. Cal. 2016), and (2) promptly file an amendment to the complaint in the new individual action that will comply with Amended Case Management Order No. 3 (ECF No. 52), which will relate back to the original filing, *see Fed. R. Civ. P. 15(c)(1)(B)*.

SO ORDERED.

Dated: May 16, 2024



J. Philip Calabrese
United States District Judge
Northern District of Ohio