

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE SUBOXONE)	Case No. 1:24-md-03092-JPC
(BUPRENORPHINE/NALOXONE))	
FILM PRODUCTS LIABILITY)	MDL 3092
LITIGATION)	
This Document Applies to All Cases)	Judge J. Philip Calabrese

JOINT AGENDA FOR SEPTEMBER 4, 2024 CASE MANAGEMENT CONFERENCE^[1]

Counsel have conferred and respectfully submit this proposed agenda:

a. **Dismissal of Indivior PLC, Reckitt Benckiser Healthcare (UK) Ltd., and Reckitt Benckiser LLC from the MDL**

On July 26, Defendants Indivior PLC, Reckitt Benckiser Healthcare (UK) Ltd., and Reckitt Benckiser LLC filed motions to dismiss under 12(b)(2) for lack of personal jurisdiction in the *Ryan Bennett v. Indivior, Inc.*, Case: 3:23-CV-02148-JJH, as an exemplar Ohio case in this MDL. On August 22, Mr. Bennett voluntarily dismissed with prejudice Indivior PLC, Reckitt Benckiser Healthcare (UK) Ltd., and Reckitt Benckiser LLC from his action and the PLC advised that it intends to dismiss these parties without prejudice in all the PLC's other cases in the MDL. Further, the PLC does not intend to proceed with causes of action and claims against these Defendants in the future, reserving the right to revisit that determination if new information is learned in discovery.

The PLC also informed Defendants that the PLC is not aware that any Plaintiffs' counsel outside of leadership intend to contest the PLC's determination not to pursue claims against these entities, but a procedure to allow any such counsel an opportunity to object to dismissal is appropriate. Thus, the parties seek the Court's guidance on the Court's preferred

^[1] The parties agree that filing this agenda shall not constitute a waiver of any defenses that may be available under Rule 12, Rule 9, Rule 8, or any other Federal Rule of Civil Procedure, including jurisdictional defenses, or a waiver of any statutory or common-law defenses that may be available to any Defendant in this action or any other matter in this jurisdiction. Defendants expressly reserve their rights to raise any such defenses in response to any operative complaint, and Plaintiffs will not argue there has been any such waiver by this filing.

procedures to effectuate the dismissal of these entities globally in this MDL with the opportunity for any counsel who disagrees to object and will discuss options with the Court at the CMC.

The 12(b)(2) briefing was limited to federal due process so that the resolution would apply to all cases. Thus, Defendants propose the entry of an Order to Show Cause as to why these defendants should not be dismissed from all cases. Defendants further state that the Parties had agreed that any Rule 12 (b)(2) briefing should be undertaken in relation to a single exemplar Ohio Plaintiff, but that the ruling would be dispositive as to all similarly situated cases, and thus assert the disposition as to Mr. Bennett's case should apply to all the cases in this MDL.

The PLC disputes Defendants' contention that there was an agreement that a ruling on Mr. Bennett's case would be dispositive as to any other case.

b. Status of Tolling Stipulation for Schedule A Plaintiffs:

Defendants sent the PLC a draft tolling stipulation for Schedule A Plaintiffs on July 25. Plaintiffs responded on August 7, and Defendants replied on August 23. The parties continue to negotiate the stipulation and will update the Court at the status conference on their continued progress.

c. Agenda for October 5 discussion of Plaintiffs' data collection

On August 16, the parties submitted to chambers their positions regarding how to determine a representative sample of Plaintiffs for purposes of developing a bellwether plan and what data should be collected from Plaintiffs more broadly to facilitate resolution. On August 27, the parties submitted their respective proposals for these tasks. The parties understand that this topic will be the subject of the October 5 meeting with the Court. The parties would benefit from the Court's guidance in determining a specific agenda for that meeting so the parties may be prepared to discuss the information of most interest to the Court during that conference.

d. Discovery of information from prior litigation over Suboxone Film

The PLC would like to discuss ECF No. 131 (letter from defense counsel regarding expert reports from antitrust and patent matters) and the status of Defendants' review of the deposition transcripts from prior litigations requested in Plaintiffs' Rule 34 requests served April 24, 2024.

e. **Custodial and non-custodial production protocol for Defendants' productions**

PLC's position:

On August 14, 2024, the PLC sent a proposed production schedule to Defendants to establish benchmarks for rolling production of custodial and non-custodial data. The PLC requests that the Court set a deadline of September 9 for Defendants to respond to the PLC's proposal and that, should the parties be unable to reach agreement, the Court direct simultaneous briefing on the disputed issues on September 27 at 4:00 EST with argument to be held at the next CMC.

Defendants' position:

Defendants' list of custodial and non-custodial sources with most relevant ESI is not due until September 18 per the ESI Order governing this case. Accordingly, Defendants propose providing their comments to Plaintiffs' proposed production schedule on that same date. In the draft proposed Order, the PLC currently seeks production of documents from 100 custodians selected by the PLC including an exception for good cause to add additional custodians, and the proposed schedule imposes very abbreviated production deadlines. The Parties need to meet and confer on the number, scope, and relevancy of custodians as well as search terms. Custodial and non-custodial discovery should begin with Indivior Inc. and deferred as to Aquestive Therapeutics, Inc. until a ruling is made on the 12(b)(6) motion. Defendants propose this issue be heard at the November CMC.

f. **Date for oral argument on motion to dismiss**

Plaintiffs propose that the Court hear oral argument on Defendants' motion to dismiss at the status hearing on October 4. Defendants submit that oral argument is not necessary but if the Court is inclined to hear oral argument Defendants agree it should be presented on October 4.

Dated: August 29, 2024

Respectfully submitted,

/s/ Ashlie Case Sletvold

Ashlie Case Sletvold
PEIFFER WOLF CARR KANE
CONWAY & WISE, LLP
6370 SOM Center Road, Suite 108
Cleveland, Ohio 44139
(216) 589-9280
asletvold@peifferwolf.com

/s/ Erin Copeland

Erin Copeland
FIBICH, LEEBRON, COPELAND
& BRIGGS
1150 Bissonnet Street
Houston, Texas 77005
(713) 424-4682
ecopeland@fibichlaw.com

/s/ Timothy J. Becker

Timothy J. Becker
JOHNSON // BECKER, PLLC
444 Cedar Street, Suite 1800
St. Paul, Minnesota 55101
(612) 436-1800
tbecker@johnsonbecker.com

/s/ Trent B. Miracle

Trent B. Miracle
FLINT COOPER LLC
222 East Park Street, #500
Edwardsville, Illinois 62025
(618) 288-4777
tmiracle@flintcooper.com

Plaintiffs' Co-Lead Counsel

/s/ Randall L. Christian

Randall L. Christian
BOWMAN AND BROOKE LLP
2901 Via Fortuna Drive, Suite 500
Austin, Texas 78746
(512) 874-3811
Randall.Christian@bowmanandbrooke.com

/s/ Denise A. Dickerson

Denise A. Dickerson
SUTTER & O'CONNELL
3600 Erieview Tower
1301 East Ninth Street
Cleveland, Ohio 44114
(216) 928-2200
ddickerson@sutter-law.com

*Attorneys for Defendants Indivior Inc.,
Indivior Solutions Inc., Indivior PLC,
Aquestive Therapeutics, Inc., Reckitt
Benckiser Healthcare (UK) Ltd., and
Reckitt Benckiser LLC*

/s/ Alyson Steele Beridon _____

Alyson Steele Beridon
HERZFELD, SUETHOLZ, GASTEL,
LENISKI, & WALL, PLLC
600 Vine Street, Suite 2720
Cincinnati, Ohio 45202
(513) 381-2224
alyson@hsglawgroup.com

Plaintiffs' Liaison Counsel