

**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. 15
BELLWETHER PROTOCOL—RECORD COLLECTION POOL**

I. Scope of Order

To further the effective and efficient management of this complex litigation, this Case Management Order will govern the selection of Plaintiffs for a Records Collection Pool to begin case-specific discovery. Further work up for disposition in this MDL will be entered by separate Order.

A. Platform for Exchange of Plaintiffs' Data

As with the Census Protocol (Case Management Order No. 12 (ECF No. 158)), the parties shall use the Rubris Crosslink system for the exchange of Plaintiff-specific discovery.

B. Establishing a Crosslink Account

Each Plaintiff's counsel and Defendants' counsel was required to establish a Crosslink account as part of the Census process. *See* Census Protocol, Case Management Order No. 12 (ECF No. 158), for instructions on establishing an account.

C. Rubris to Maintain Secure Database

Rubris shall continue to maintain a secure, confidential, and searchable database available to the PLC and Defense Counsel for all records that a Plaintiff's counsel serves on Defense Counsel and all records that Defendants upload to Crosslink. Non-PLC firms will have access only to their own clients' information. How each Party accesses or uses the data and the database shall be strictly confidential and not be disclosed in any manner by Rubris. All documents and information uploaded to the Crosslink database shall be deemed "Confidential" and subject to Case Management Order No. 5 (ECF No. 84) regardless of the presence or absence of any formal confidentiality designation.

II. Identification of "Record Collection Pool"

As set out in this Order, 500 Plaintiffs will be randomly identified through a computer-generated application for purposes of providing executed authorizations for collection of certain medical records (the "Record Collection Pool") defined below. The Record Collection Pool will consist of Plaintiffs subject to Case Management Order No. 12 (ECF No. 158) who filed cases on or before October 7, 2024. Specifically, it will be made up of 100 individually filed cases and 400 cases from Schedule A, all randomly selected. It shall not include Plaintiffs appearing *pro se* at the time of the selection. Record Collection Cases will be selected within seven days of entry of this Order.

Within seven days following completion of the Record Collection Pool selection, the parties shall submit a proposed order to calabrese_chambers@ohnd.uscourts.gov identifying the 500 Plaintiffs in the Record Collection Pool.

A. Voluntary Dismissal of Plaintiffs in the Record Collection Pool

A.1. Dismissal Without Prejudice

A Plaintiff with a filed case may remove his or her case from the Record Collection Pool by dismissing his or her filed case without prejudice under Rule 41 within 30 days of the Record Pool Collection selection. Schedule A Plaintiffs may remove their respective cases from the Record Collection Pool by completing the “Remove from Schedule A with Plaintiff’s Consent” task in Crosslink within 30 days of the Record Collection selection.

A.2. Dismissal With Prejudice

After 30 days, a filed or Schedule A Record Collection Pool case shall be dismissed with prejudice unless there is a showing of good cause.

B. Replacement

The dismissal or removal of any Plaintiff under these provisions requires replacement of that Plaintiff in the Record Collection Pool within seven days. The replacement Plaintiff will come from the same source (individually filed or Schedule A) from which the dismissed Plaintiff originated. The parties will submit an agreed order identifying any replacement Plaintiffs (“Replacement Order”). Deadlines for replacement Plaintiffs will be triggered by the date they appeared on the Replacement Order (meaning those Plaintiffs will have 30 days from being placed

in the Record Collection Pool to dismiss their cases or consent to removal from Schedule A). Any replacement Plaintiffs who dismiss/remove their cases will not be replaced in the Records Collection Pool pursuant to the same procedure above absent agreement of the parties or Order of the Court.

III. Records Collection Process

III.A. Accelerated Deadline to Execute Authorizations

Within 60 days of the Court's entry of the Order identifying the 500 Plaintiffs in the Record Collection Pool, counsel for those Plaintiffs shall serve via Rubris Crosslink the executed authorizations listed in Section VII.C of the Census Form attached to Case Management Order No. 12. (ECF No. 158-1, PageID #4046.) For Plaintiffs who appear on the Replacement Order, the deadline will be 60 days from the date of the Replacement Order. These authorizations shall be limited to the healthcare providers listed in Case Management Order No. 12, ¶ VI.A: (1) healthcare provider(s) who prescribed Suboxone Film; (2) who treated plaintiff for the claimed injuries; and (3) pharmacies or MAT clinics where plaintiff picked up Suboxone film. (ECF No. 158-1, PageID #4046.)

Plaintiffs identified for the Record Collection Pool remain subject to the August 1, 2025 deadline for service of all other documents required by Case Management Order No. 12.

III.B. Records Collection by Defendants to Begin Immediately

Within seven days of receiving an executed authorization from a Record Collection Pool Plaintiff, Defendants will either (1) submit the executed authorization

to the Plaintiff's identified providers or (2) serve a deficiency notice to address any technical defect appearing on the face of the authorization. For any deficiency notification, the parties will thereafter follow the deficiency process in Case Management Order No. 12 (ECF No. 158).

When submitting authorizations to providers, Defendants shall enclose a copy of Case Management Order No. 13 (ECF No. 194).

Within seven days of receiving records from a Plaintiff's provider, Defendants or their vendor will upload the records to Crosslink, which will notify the Plaintiff's counsel that the records have been uploaded.

III.C. Reports on Record Collection

Defendants will report to the Court with each the agenda for each case management conference on the progress toward completing records collection, including the number of requests sent, the number of Plaintiffs for whom records collection is complete, and the number of Plaintiffs to whom their records have been produced via Crosslink. Defendants will also advise the Court in each report of any healthcare providers that have not complied with Case Management Order No. 13 in responding to records requests.

III.D. Substantial Completion of Record Collection Pool Phase

The Record Collection Phase will be deemed substantially complete when (1) Defendants have completed records collection for 85% (425) of the Plaintiffs in the Records Collection Pool, or fewer upon agreement of the parties, and (2) the parties have substantially completed their ESI productions. The parties will jointly advise

the Court when that threshold is met. Within 30 days of satisfying the threshold, the parties will supply the Court with a proposed schedule governing completion of Core, Trial Pool, and Corporate discovery.

IV. Order Remains in Force

This Order shall remain in force and effect until modified, superseded, or terminated by consent of the Parties or by Order of the Court. The Court retains jurisdiction after termination of this action to enforce this Order and to make such amendments, modifications, deletions, and additions to this Order as the Court may deem appropriate.

V. Modifying Order

This Order may be modified or amended by the agreement of the Parties or for good cause shown, after appropriate notice and opportunity to be heard is provided to the affected parties, when the Court finds the interests of justice dictate modification. Nothing in this Order shall be construed to prohibit the Parties from agreeing to modify any provision of this Order or seeking relief from the Court. Nor shall anything in this Order or any Party's compliance with it be construed as a waiver of any Party's rights under applicable law.

SO ORDERED.

Dated: March 14, 2025

A handwritten signature in black ink, appearing to read 'J. Calabrese', with a long horizontal flourish extending to the right.

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