



U.S. Department of Justice

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November 4, 2020

VIA EMAIL

Jeff Gaddy
Levin Papantonio Thomas Mitchell Rafferty & Proctor P.A.
316 S. Baylen Street, Suite 600
Pensacola, FL 32502
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Re: *Touhy* Requests re: DEA 30(b)(6), in *In re National Prescription Opiate Litig.*,
MDL No. 2804 Track One B and Track Three Cases (N.D. Ohio)

Dear Mr. Gaddy:

The United States Department of Justice (DOJ) is in receipt of your *Touhy* Request and corresponding subpoena for 30(b)(6) testimony, both dated September 28, 2020, as well as your subsequent *Touhy* Request, dated October 6, 2020, in which you requested that the Drug Enforcement Administration (DEA) provide testimony regarding official DOJ information. As you know, DOJ attorneys have met and conferred with you regarding these requests on multiple occasions over the course of the last month.

Any disclosure of such information, by testimony or otherwise, must be in accordance with the law and policy that governs the disclosure of official DOJ information by federal employees and agencies, including the DEA. *See* 28 C.F.R. § 16.21-.29 ("*Touhy* regulations"). The *Touhy* regulations apply, *inter alia*, in situations such as this, where the United States is not a party to the proceeding. Under those regulations, current and former DEA employees are prohibited from disclosing official information absent express authorization from DOJ. 28 C.F.R. § 16.22(a). Pursuant to 28 C.F.R. § 16.22, I am the official responsible for consulting with the DEA and authorizing any disclosure in this case in response to your request. Federal regulations require me to consider whether disclosure is appropriate under the applicable rules of procedure and law concerning privilege. 28 C.F.R. § 16.26(a). In addition, the release of official information is prohibited if disclosure would:

CCSF v. Purdue Pharma,
et al. 3:18-CV-7591
WAG-MDL-02523
Admitted: 06/17/2022

Defendant
Deposition Ex. No.
20
Case No. 17-md-2804

WAG-MDL-02523.00001

1. Violate a specific statute or regulation;
2. Reveal classified information;
3. Reveal a confidential source or informant;
4. Reveal investigative techniques or investigatory records compiled for law enforcement purposes; or
5. Reveal trade secrets without the owner's consent.

28 C.F.R. § 16.26(b).

The DEA has been contacted about your request and has stated that it does not object to the limited authorization of testimony as set forth herein. Therefore, pursuant to 28 C.F.R. § 16.24, and consistent with your discussions with DOJ, I am authorizing DEA Section Chief Claire Brennan to provide deposition testimony as a 30(b)(6) witness on behalf of DEA regarding the following topics:

1. The responsibilities of Diversion Investigators when performing cyclic investigations of pharmacy distribution centers; and
2. The specific cyclic investigation reports and related documents identified in Attachment A to this letter.

The deposition of Ms. Brennan shall be scheduled at a date and time to be mutually agreed upon by you, Walgreens, and DEA/DOJ and shall not exceed six hours in total. Of that six hours, Walgreens shall be allotted four hours and Plaintiffs shall be allotted two hours to question Ms. Brennan. Nothing in this letter should be construed as authorizing Ms. Brennan to provide any of the following information:

- Information regarding any specific non-public DEA investigations or activities;
- Classified and classifiable information;
- Information that would reveal the internal deliberative process within the United States Department of Justice, including the DEA, the United States Attorney's Office, and/or any other federal departments or agencies;
- Information that would reveal a confidential source or informant;
- Information the disclosure of which would violate a statute, including laws governing grand jury proceedings;
- Information that could threaten the lives or safety of any individual, including home addresses of law enforcement personnel;

- Information that could interfere with ongoing investigations and/or prosecutions;
- Information that could reveal investigative or intelligence gathering and dissemination techniques whose effectiveness would be thereby impaired;
- Privileged attorney-client information;
- Information that would reveal attorney work product or matters of prosecutorial discretion;
- Expert opinion testimony related to non-public facts or information acquired as part of Ms. Brennan's performance of her official duties;
- Personal opinions regarding non-public facts or information acquired as part of Ms. Brennan's performance of her official duties; and
- Any non-public recommendations Ms. Brennan made or was aware of concerning any proposed agency action.

I appreciate your cooperation and adherence to the Department's *Touhy* regulations.

Sincerely,



AVA ROTELL DUSTIN
Executive Assistant United States Attorney
Northern District of Ohio
Acting Under Authority Conferred by 28 U.S.C. § 515

ATTACHMENT A

List of documents (by beginning Bates number) for which DEA deposition testimony is authorized pursuant to 28 C.F.R. § 16.24:

- US-DEA-00030763
- US-DEA-00030873
- US-DEA-00030898
- US-DEA-00030921
- US-DEA-00031015
- US-DEA-00031084
- US-DEA-00031395
- US-DEA-00031425
- US-DEA-00031492
- US-DEA-00031513
- US-DEA-00032745
- US-DEA-00032761
- US-DEA-00033080
- US-DEA-00033081
- WAGMDL00709510
- WAGMDL00387642
- WAGMDL00493688
- WAGMDL00493725