

United State District Court
Northern District of Ohio
Eastern Division

In Re: National Prescription Opiate Litigation	Case No.: 1:17-CV-2804 Hon. Dan A. Polster Plaintiffs' Ponca Tribe of Nebraska, et al, Motion for Order(s) Establishing A Separate Tribal Government Tract
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Plaintiff's Ponca Tribe of Nebraska (D. Neb. No. 8:18-cv-00180, transferred to MDL 2804 by CTO-28 on May 2, 2018) and Plaintiffs Winnebago Tribe of Nebraska, Omaha Tribe of Nebraska, and Santee Sioux Tribe of the Sioux Nation of the State of Nebraska (D. Neb. No. 8:18-cv-00203, awaiting transfer to MDL 2804) respectfully request that this Court issue Orders and grant relief as described below. (The moving Plaintiffs are the "Moving Tribal Governments" below.)

The Motion and Relief Requested

The Moving Tribal Governments ask that the Court issue one or more Orders creating a separate Tribal Governments Tract for centralized discovery, case development, and bellwether trial(s) in this MDL. The relief requested requires modification of this Court's CMO #1 in MDL 2804. It likely also requires a new Case Management Order governing the new Track.

The Court is asked to issue one or more Orders establishing a separate Tribal Governments track of litigation for all Sovereign Native American Tribal Governments.

Within the Order it is requested that the Court:

1 Authorize and direct specialized discovery and case development steps in a Track unique to the 567 federally recognized Tribal Governments and to Native American people in the United States who are “Indians” as defined by federal law. The list of Tribes is published at 81 Fed Reg 26826 (Jan.17, 2017). This list includes the Moving Tribal Governments;

2 Authorize proceedings against selected Defendants and using selected theories of the law, including theories unique, or particularly well suited, for Tribal Governments’ Claims;

3 Direct counsel for the centralized efforts in the Tribal Governments Track to coordinate non-unique discovery efforts where possible with centralized discovery efforts common to all centralized cases, and direct Counsel for other tracks to coordinate these efforts;

4 Select lead, coordinating, committee, and trial counsel for the Track;

5 Select one or more bellwether cases, schedule them for trial and try the cases to verdicts and judgments;

6 Define the role, and direct involvement of lead counsel for the Track, in settlement negotiations but prohibit settlement without prior approval of the Court; and,

7 Issue additional directions to counsel and the parties, and to govern the Tribal Governments Track in best the interests of the Track.

The Moving Tribal Governments’ Memorandum and Brief is submitted following this Motion.

Ponca Tribe of Nebraska, Santee Tribe of Nebraska, Winnebago Tribe of Nebraska and Omaha Tribe of Nebraska, Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record and all persons registered with the CM/ECF system in this Court.

David A. Domina