

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**IN RE: EpiPen (Epinephrine  
Injection, USP) Marketing,  
Sales Practices and Antitrust  
Litigation**

**MDL No: 2785**

**Case No. 17-md-2785-DDC-TJJ**

**(This Document Applies to All Cases)**

**MEMORANDUM AND ORDER**

This matter is before the Court on Class Plaintiffs' Motion to Compel Non-Party WebMD Health Corp. to Comply with Subpoena (ECF No. 516). Pursuant to Fed. R. Civ. P. 26 and 45, Class Plaintiffs seek an order requiring non-party WebMD Health Corp. to search for and produce documents responsive to Plaintiffs' subpoena served on March 8, 2018. WebMD has not opposed the motion. As set forth below, the Court will grant Plaintiffs' motion.

On March 8, 2018, Plaintiffs served WebMD with a subpoena seeking production of documents relevant to this action. The subpoena required production no later than April 9, 2018. WebMD failed to serve objections with 14 days as required by Rule 45, and produced no documents before Plaintiffs filed the instant motion on May 9, 2018.

WebMD filed no response to Plaintiffs' motion to compel. Plaintiffs nevertheless filed a reply, noting the lack of response and reporting that WebMD has advised it "is working to compile the documents and will produce them as kept in the ordinary course [and] expect[s] production will be complete by June 15, 2018."<sup>1</sup> WebMD further confirmed with Plaintiffs that

---

<sup>1</sup> ECF No. 674 at 2-3.

it “do[es] not anticipate withholding any non privileged documents.”<sup>2</sup> As a result of their communications, Plaintiffs advise the Court that setting aside any currently unforeseen issues in WebMD’s upcoming production, “the only remaining issue raised by Plaintiffs’ Motion concerns WebMD’s failure to object and waiver thereof.”<sup>3</sup>

Accordingly, the Court grants Plaintiffs’ motion as unopposed. WebMD’s failure to timely serve objections to the subpoena constitutes a waiver of any objections.

**IT IS HEREBY ORDERED** that Class Plaintiffs’ Motion to Compel Non-Party WebMD Health Corp. to Comply with Subpoena (ECF No. 516) is granted. WebMD shall produce documents responsive to the subpoena, without objection, no later than **June 15, 2018**.

**IT IS SO ORDERED.**

Dated this 8th day of June, 2018 in Kansas City, Kansas.

  
\_\_\_\_\_  
Teresa J. James  
U. S. Magistrate Judge

---

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*