



Opioids and the Courts News: September 13, 2019

National

[Purdue Pharma Tentatively Settles Thousands Of Opioid Cases](#)

New York Times

Thousands of municipal governments nationwide and nearly two dozen states that sued the pharmaceutical industry for the destructive opioid crisis have tentatively reached a settlement with Purdue Pharma and its owners, members of the Sackler family.

The deal is a landmark moment in the long-running effort to compel Purdue, the company whose signature opioid, OxyContin, is seen as an early driver of the epidemic, and its owners, the Sacklers, to face a reckoning for the deaths of hundreds of thousands of people from overdoses and the calamitous systemic costs.

Specifics of the settlement have yet to be hammered out, but according to two people involved in the negotiations, the broad contours of the deal would involve Purdue filing for Chapter 11 bankruptcy. The company would be dissolved, and a new one would be formed to continue selling OxyContin and other medicines, with the profits used to pay the plaintiffs. Purdue Pharma also would donate drugs for addiction treatment and overdose reversal, several of which are in development.

Under the deal, the Sackler family would pay \$3 billion in cash over seven years.

The settlement does not include an admission of wrongdoing.

National

[Tentative Opioids Settlement Falls Short of Nationwide Deal](#)

Associated Press

The agreement with about half the states and attorneys representing roughly 2,000 local governments would have Purdue file for a structured bankruptcy and pay as much as \$12 billion over time, with about \$3 billion coming from the Sackler family. That number involves future profits and the value of drugs currently in development.

In addition, the family would have to give up its ownership of the company and contribute another \$1.5 billion by selling another of its pharmaceutical companies, Mundipharma.

Several attorneys general said the agreement was a better way to ensure compensation from Purdue and the Sacklers than taking their chances if Purdue files for bankruptcy on its own.





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[Major Drug Maker is Close to Settling Case to Avert First Federal Trial in Opioid Crisis](#)

New York Times

One of the biggest makers of generic opioids in the United States has reached a tentative settlement of claims to avoid the first federal trial of drug makers, distributors and retail chains for their roles in the opioid epidemic. Mallinckrodt Pharmaceuticals, a company investigators for the Drug Enforcement Administration once referred to as “the kingpin of the drug cartel,” announced Friday that it had agreed to pay \$24 million to two Ohio counties. Under the agreement, the company would also donate \$6 million worth of drugs, including addiction treatment medications, to the plaintiffs, Cuyahoga and Summit Counties.

National

[Opioid judge approves ‘negotiation class’ over objections of state AGs and defendants](#)

LegalNewsline

In a move that appeared preordained after his comments at an August hearing, U.S. District Judge Dan Aaron Polster approved an unprecedented “negotiation class” of every city and county nationwide to try and reach a global settlement with opioid manufacturers and distributors.

The proposal was opposed by 37 state attorneys general and many of the defendants, who said it will hinder their own efforts to negotiate a settlement and may violate federal law and constitutional guarantees of due process. Even if settlement talks proceed under the plan, any agreement must be presented to state AGs for possible objections before the court can approve it, and some cities and counties are also likely to file objections to both the procedure and any settlement reached.

Under the plan Judge Polster approved yesterday, the normal process in which class members decide whether to participate in a settlement only after it is negotiated would be inverted. With the “negotiation class,” more than 34,000 cities and counties will have to decide, possibly within the next 60 days, whether to participate before they know how much money is on the table. While Rule 23 of the Federal Rules of Civil Procedure and U.S. Supreme Court precedent suggest class members must have the opportunity to opt out of settlements they disagree with, Judge Polster said that isn’t a requirement and he will only consider a second opt-out period “if circumstances require.”

The plan would allocate 75% of any settlement to counties, leaving for later the question of how to share the money with the cities within them, and steer as much as 25% to private lawyers representing municipal plaintiffs. It could produce a multibillion-dollar



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payday for many of the same lawyers who shared in \$14 billion in fees from the \$260 billion tobacco settlement in 1997.

National

[These Newborn Babies Cry For Drugs, Not Milk](#)

New York Times

His body dependent on opioids, he writhes, trembles and cries. He is exhausted but cannot sleep. He vomits, barely eats and has lost weight. He is also a baby. Just 1 month old, he wails in the nursery of the CAMC Women and Children's Hospital here. A volunteer "cuddler" holds him while walking around, murmuring sweetly, hour after hour, but he is inconsolable. What his body craves is heroin.

National

[U.S. Judge Allows Public Nuisance Claim In Opioid Trial](#)

Reuters

The U.S. judge overseeing nationwide litigation concerning the opioid epidemic on Monday rejected Purdue Pharma LP's effort to dismiss claims that its activities caused a public nuisance. U.S. District Judge Dan Polster in Cleveland ruled six weeks before the first scheduled federal trial over the epidemic, in a case brought by Cuyahoga and Summit counties in Ohio.

Massachusetts

[Seven jails start providing medications for addiction in pilot program](#)

Boston Globe

"Is this really happening?"

A handful of callers posed that question in recent weeks to Essex County Sheriff Kevin F. Copping, who said he was surprised to hear from them, all people who had warrants out for their arrest.

When told that yes, it's really happening — medications to treat opioid addiction will be provided in jail — the callers agreed to turn themselves in, Copping said.

Along with six other Massachusetts counties, the Essex County House of Correction launched a pilot program Sunday to provide buprenorphine (often known as Suboxone) and methadone to newly arriving inmates who are already taking the medications under a doctor's supervision. The drugs ease cravings, prevent overdoses, and help keep people in treatment.



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At most prisons and jails, addicted inmates are forced into painful withdrawal when incarcerated.

“There’s a great sense of relief on behalf of our offenders,” said Hampden County Sheriff Nick Cocchi. “What we’ve heard is, ‘Thank you for acknowledging and continuing the treatment.’”

Michigan

[Whitmer establishes statewide opioids task force](#)

Grand Rapids Business Journal

Michigan is creating a task force to combat the opioid epidemic sweeping the state.

Gov. Gretchen Whitmer established the Michigan Opioids Task Force in August, which is made up of government representatives from various departments and branches.

The task force will be chaired by Dr. Joneigh Khaldun, chief medical executive and chief deputy director for health for the Michigan Department of Health and Human Services.

The members are Chief Justice Bridget McCormack or the chief justice’s designee, and the directors or the directors’ designees from the departments of Health and Human Services; Attorney General; Licensing and Regulatory Affairs; Michigan State Police; Corrections; Environment, Great Lakes, and Energy; Insurance and Financial Services; Military and Veterans Affairs; Labor and Economic Opportunity; and Education.

Minnesota

[How opioids, meth have forced Minnesota counties to rethink foster care](#)

MinnPost

Tiffany Kacir, Olmsted County’s program manager for foster care cases, said substance abuse was behind a third of the county’s out-of-home placements in 2018, complicating how cases are managed. “It presents some challenges for (family) reunification,” she said. “We want to put our full efforts into that, but we know that court timelines, for example, don’t always line up very well with recovery timelines.”

New York

[New Watertown Opioid Court now taking cases](#)

WRVO

The approach that the Watertown City Court uses to address some cases involving opioids has changed. It is one of 10 courts in New York to receive a \$150,000 grant for a new opioid court.



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Watertown currently has a specific drug court to handle cases involving illicit substances, but the administrative judge who oversees the Watertown City Court, James Murphy, says the problems posed by opioids are unique.

“Frankly, they need more court intervention,” Murphy said. “There’s a lot of different drug cases and issues, but opioids are particularly volatile and violent, and people die.”

Murphy says the new opioid court plans to identify those defendants who are at risk of an opioid overdose. The Jefferson County District Attorney's Office will then work with the court to suspend their prosecution while the defendant receives medical attention. Two grant-funded medical professionals will provide them with clinical and peer support and the opioid court will meet several times a week to ensure the defendant is following the treatment program.

Ohio

[Settlement money won't restore Ohio city upended by opioids](#)

Washington Post

Summit County’s estimated payout from the \$12 billion tentative Purdue settlement was estimated at \$13.2 million. Akron would receive about \$3.7 million. Barberton, the county’s second-largest city, would receive \$492,000.

Those dollars are intended to compensate for the many financial effects of opioids, including not only the demands on fire, police and medical services, but the crowded jails, the bulging foster-care system, the bursting drug-court dockets, the overloaded addiction programs and the inundated emergency rooms.

Summit County Common Pleas Judge Joy Malek Oldfield sees about 50 felony offenders in her drug court every Monday morning. It’s one of two drug-court dockets totaling 80 to 100 people, about double the number before the crisis.

“We’re nearing capacity for both dockets, and most of them are opiate-dependent,” Oldfield said.

In the past, when most drug offenders used crack cocaine or marijuana, “the treatment was tailored to those users,” Oldfield said. “If someone had a bad day and relapsed, they didn’t die.” But opioid addiction is fierce and often requires residential treatment, the judge said.



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Tennessee

[Tennessee appellate court says Big Pharma can be sued as drug dealers](#)

The Tennessean

In the first ruling of its kind in Tennessee, an appellate court says opioid makers who act like drug dealers can be treated like ones.

The state Court of Appeals on Wednesday ruled opioid makers Endo Pharmaceuticals, Purdue Pharma, Mallinckrodt Pharmaceuticals and Teva Pharmaceuticals can be sued as drug dealers — and Tennessee’s district attorneys generals have the right to sue them.

It is the first test of an experimental use of an unusual Tennessee law known as the Drug Dealer Liability Act to hold opioid makers financially responsible for the opiate epidemic that claims thousands of lives in the state annually.

...

“Drug manufacturers cannot, as is alleged here, knowingly seek out suspect doctors and pharmacies, oversupply them with opioids for the purpose of diversion, benefit from the process, and then cynically invoke their status as otherwise lawful companies to avoid civil liability,” Appellate Judge D. Michael Swiney wrote.

“The common perception of a drug dealer may be that of the street dealer, but the DDLA does not make that distinction,” the opinion continued. “If plaintiffs’ allegations are correct ... (opioid) manufacturer defendants knowingly flooded the affected areas with drugs they knew were to be diverted.

“That is the basis for civil liability under the DDLA whether one’s headquarters is an office building or a back alley,” the court ruled.