

Broadview Heights joins litigation against drug makers and distributors over opioid epidemic

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By Bob Sandrick, special to cleveland.com

BROADVIEW HEIGHTS, Ohio - The city will join litigation, filed by dozens of governmental entities in several states, against drug manufacturers and distributors over the nation's opioid epidemic.

City Council has asked Climaco, Wilcox, Peca & Garofoli Co. LPA, a Cleveland law firm, and Napoli Shkolnik PLLC in New York City, to represent Broadview Heights in the legal action.

"(The lawsuit) is like a shot over the bow," Broadview Heights Councilman Joe Price said. "It's to let drug companies know that we are seeing this happening, and that we're paying the cost for their profits and bottom line."

U.S. District Judge Dan Polster is presiding over more than 200 lawsuits - filed by governmental entities in Alabama, California, Illinois, Kentucky, Ohio, Washington and West Virginia - blaming drug manufacturers and distributors for the opioid crisis. Polster is urging all parties to settle.

The lawsuits say that drug makers overstated the benefits and downplayed the risks of using opioids, and that distributors failed to monitor suspicious orders of prescription opiates. Their actions have led to overdose deaths across the country, the lawsuits say.

The lawsuits ask the courts to make drug manufacturers and distributors pay governments for costs associated with the opioid epidemic and to punish the companies for creating a public nuisance.

The amount of money governments are seeking has not been determined, but one lawsuit estimated that the opioid crisis has cost them "tens of millions" of dollars.

According to the National Institute of Drug Abuse, more than 90 Americans die each day after overdosing on opioids, including prescription pain relievers, heroin and synthetic opioids such as fentanyl.

Broadview Heights Councilwoman Jennifer Mahnic said the opioid crisis has placed more burden on the city's Police and Fire departments as they respond to an increasing number of drug overdoses.

This is especially problematic as the city's senior population rises, due to developers building new nursing homes and assisted-living communities.

"We need our safety forces to be accessible and available to all the demands of the community," Mahnic said.

Mahnic hopes the lawsuit will bring positive change by making doctors more aware of the drugs they are prescribing.

Price added that cities such as Broadview Heights pay for employee healthcare benefits -- and insurance premiums and prescription costs are rising, partly because of the opioid epidemic.

John Climaco, of Climaco Wilcox in Cleveland, said he plans to file a lawsuit "soon" on behalf of Broadview Heights in Cuyahoga County Common Pleas Court. He expects the lawsuit, like other opioid cases, to be moved to federal court.

The city, under its contract with Climaco Wilcox and Napoli Shkolnik, will not pay a legal fee unless it wins a monetary award. The city will give attorneys 10 percent of any amount awarded before the complaint is filed; 20 percent to 25 percent after legal briefings are submitted; 35 percent after a final pretrial, if the lawsuit reaches that point; and 40 percent once a trial begins.

Other local municipalities, including Parma, Lorain and Elyria, have already filed lawsuits, and those cases have been consolidated in Polster's courtroom.

A lawsuit filed by Cuyahoga County was also moved to federal court, but the county is attempting to transfer the case back to state court.

Meanwhile, Ohio Attorney General Mike DeWine is litigating a lawsuit against drug makers and distributors in Ross County.

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