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EDITOR'S PICK

Niagara County moves forward with opioid lawsuit

Dozens of counties across state are suing manufacturers, distributors of opioid painkillers

BY TIM FENSTER tim.fenster@lockportjournal.com 11 hrs ago



Niagara County is moving ahead with its lawsuit against several manufacturers and distributors of opioid painkillers for their role in sparking a nationwide heroin and opiate epidemic.

Assistant County Attorney John Ottaviano said he signed a complaint Tuesday authorizing the county's lawsuit against five opioid manufacturers and their subsidiaries as well as three opioid wholesale distributors.

In recent years, numerous states and counties across the nation have sued pharmaceutical giants like Purdue Pharma, alleging that the companies misled doctors and patients on both the risks and benefits of opioid painkillers.

Representing the county is Napoli Shkolnik, PLLC, a Manhattan-based law firm that is representing about 20 New York State counties in similar lawsuits.

The county elected to file an individual lawsuit, per recommendations from Napoli and the county attorney office.

Napoli associate Joe Ciaccio said that all the counties that they represent are filing individual lawsuits, which are being heard by a Suffolk County judge and are being coordinated there.

Ciaccio said he expects many more state counties to file similar lawsuits in the coming months and years.

"I would anticipate almost every, if not every, county in New York eventually joining the lawsuit," Ciaccio said.

Ciaccio said previous lawsuits against opioid manufacturers and distributors have proven successful, "but not recently and not in this newest wave of lawsuits." The state of Kentucky settled a lawsuit against Purdue Pharma, the maker of OxyContin, for \$24 million in late 2015.

Despite the differences in state and local laws, Ciaccio said the basis for the counties' lawsuits are similar to the state of Kentucky's.

"Generally, the actions of the defendants that are the basis of the lawsuit were happening in every state and county across the country," Ciaccio said. "In many ways it was very similar.

Critics of pharmaceutical industries like Purdue Pharma say the companies misled doctors and patients on the addictive nature of opioid medications, and continued to market the pain relievers despite growing rates of addiction. Critics also say these companies ignored that continued use of opioids diminishes their pain-relieving nature, requiring increases in dosage which increases the risk of addiction.

However, New York state counties are also filing lawsuits against three opioid distributors for allegedly filling large and suspicious orders of opioids like OxyContin.

"They failed in their duty to report what were obviously very suspicious orders," Ciaccio said.

Niagara County is retaining Napoli on a contingency basis. According to information provided by Ottaviano, the county would pay Napoli 7.5 percent of a pre-complaint recovery, 15 percent after ruling on a motion to dismiss, 20 percent after the close of pre-trial discovery and 25 percent after a ruling on summary judgement.

Ciaccio said he doesn't expect the lawsuit to be settled for years.

"At this point we expect that the companies will be in the fight for the long haul. ... We're preparing that it could be several years (until the lawsuits are resolved)," Ciaccio said.

Niagara County Legislator Becky Wydysz, R-Lewiston, called the lawsuit an opportunity for the county to recoup a fraction of the enormous amount it has spent addressing the opioid and heroin epidemic.

"That number would be staggering," Wydysz said of trying to estimate the financial toll the crisis has taken on the county. "I think it would be higher than many people realize, when you put all the pieces and parts together."

And then, of course, there's the human toll of the heroin epidemic — hundreds of Western New Yorkers dead from overdoses and thousands more lives and families consumed by addiction.

"The list is endless," said Wydysz, chair of the county's opioid addiction committee.

"It's also a chance for these companies to understand and see how this crisis began, and take responsibility for it," she added.

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