



## **Cuyahoga, Summit counties get hundreds of millions of dollars, but opioid litigation far from over**

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By Eric Heisig, cleveland.com | Updated Oct 21, 2019; Posted Oct 21, 2019

CLEVELAND, Ohio — While the nation’s first federal opioid trial ended Monday without an actual trial, the cases drug companies face nationwide are far from over.

Opioid manufacturers and distributors are largely still defending themselves from more than 2,300 other federal lawsuits, along with other cases filed in state courts across the country, despite the settlements reached with Cuyahoga and Summit counties.

Attorneys representing the thousands cities and counties in federal court said they intend to pursue their other cases and that negotiations should continue.

“No, this is not a global settlement, but we still want a global settlement,” Joe Rice, a lawyer for Summit County and a leader of a team of plaintiffs’ attorneys, said Monday outside the Carl B. Stokes U.S. Courthouse.

The settlement that scuttled the trial involves the “big three” pharmaceutical distributors – AmerisourceBergen, the Ohio-based Cardinal Health and McKesson – paying a combined \$215 million to the counties. Israel-based Teva Pharmaceuticals will pay \$20 million and donate \$25 million of a drug designed to help wean people off opioids.

The pharmacy chain Walgreens, which was also set to defend itself at trial, did not reach a deal and could face a trial at a later date. Small New York-based distributor Henry Schein also reached an agreement worth \$1.25 million.

The settling companies join Endo International, Allergan, Mallinckrodt and Johnson & Johnson as ones that have made agreements to resolve the lawsuits the counties filed against them. OxyContin maker Purdue Pharma also reached an agreement potentially worth up to \$12 billion to resolve all the lawsuits it faces.

With news of Monday's settlement, here's a few takeaways and tidbits from Monday's news.

A late night for all.

After talks broke down on Friday with state attorneys general, drug company representatives and lawyers for cities and counties, negotiations resumed Sunday to just settle Cuyahoga and Summit counties' cases, attorney Hunter Shkolnik said.

Preparations for the trial continued despite the talks.

Attorney Mark Lanier was set to give the opening statement on behalf of the plaintiffs along with lawyer Don Migliori. Lanier said he practiced his opening again to an audience of 25 people at around midnight in their "war room" at Post Office Plaza, a short walk from the federal courthouse, and took suggestions for changes.

"The last change I made was that I failed to put an apostrophe in one of the slides," Lanier said.

While recounting parts of his planned openings to reporters, he noted references he planned to make about the poppy fields in "The Wonderful Wizard of Oz" and that he planned to show the jury a Sumerian poppy jar from 3,000 years ago.

The lawyers received word of the settlement after midnight and continued their trial preparations. They kept at it because they were unsure whether Walgreens would also settle, Migliori said.

The deal was codified by 1 a.m. Attorneys made the late-night call to U.S. Judge Polster and informed him of the agreement, Shkolnik said.

The news began to circulate among the attorneys, government officials and journalists who came to watch what was expected to be an eight-week trial. Cuyahoga County Executive Armond Budish said he woke up at 6 a.m. and saw a text from Cleveland attorney Frank Gallucci to call him. He then learned of the deal.

This is far from over

The mood outside the courthouse Monday was charged and a bit celebratory. Plaintiffs' attorneys took pictures, chatted with each other and spoke to reporters for about an hour.

The reprieve will be short-lived, though. Gallucci said that Polster was going to talk attorneys soon about the future of Cuyahoga and Summit counties' lawsuits.

Walgreens remains a defendant, as do other companies that were removed prior to the trial taking place in order to make the trial go more quickly. They include mega-retailers and pharmacies such as Walmart, CVS, Rite Aid and Discount Drug Mart.

Reading the settlement tea leaves

If the settlements reached with the two Ohio counties are any indication, there might not be other trials.

Cuyahoga and Summit counties' cases were set up as what is known as a "bellwether trial," designed to see how claims and defenses fare in front of a jury.

The case also showed how the drug companies reacted as a trial date neared.

"If they blink before trial, the logical inference is they're going to blink before trial next time," Case Western Reserve University Law Professor Andrew Pollis said of the drug companies.

Polster, who is known for his prowess in settling cases, said from the outset that he would like to see a large-scale agreement that would resolve all the cases filed in state and federal courts nationwide. That hasn't happened yet, though not for lack of trying.

any drug companies have resisted such settlements, though last week provided a sign that their positions may be changing.

AmerisourceBergen, Cardinal Health, McKesson, Teva and Johnson & Johnson reached a tentative deal worth more than \$48 billion that would have involved cash and medication to resolve all the cases they face nationwide.

Attorneys general from North Carolina, Pennsylvania, Tennessee and Texas said Friday that the proposed deal was reached but that lawyers for cities and counties were holding out. The lawyers said it was not worth enough.

The out-of-state attorneys general reiterated the proposed deal in a conference call with reporters on Monday afternoon. They said they plan to work to get other parties to sign on to the proposal.

Ohio Attorney General Dave Yost made clear that he disfavors the proposal based on what he knows of it.

Polster acknowledged ongoing talks on Monday.

“It’s very important that those very productive discussions that we had continue and that we don’t lose the momentum that was created,” the judge said before adjourning the trial.