

Four drug companies reach \$260 million settlement to avoid first federal opioid trial in Cleveland

By Eric Heisig, [cleveland.com](https://www.cleveland.com) Updated Oct 21, 10:06 PM; Posted Oct 21, 8:31 AM



CLEVELAND, Ohio — Four major drug companies reached an agreement Monday with Cuyahoga and Summit counties worth \$260 million, hours before the nation's first federal opioid trial was set to commence in Cleveland.

The agreement, reached shortly after midnight and announced Monday morning, settles claims the counties made against large distribution companies AmerisourceBergen, McKesson, the Ohio-based Cardinal Health and drugmaker Teva Pharmaceuticals.

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Under the agreement, the three distributors will pay a combined \$215 million, while Teva will pay \$20 million in cash over between now and 2021. Teva will also donate \$25 million in Suboxone, a medication used to treat opioid addiction.

Pharmacy chain Walgreens did not reach an agreement. The suburban Chicago-based company is set to be included in a second trial the counties plan to mount. That trial would include other large companies such as Walmart, CVS and Rite Aid.

“The settlement does not bring things to an end,” Cuyahoga County Executive Armond Budish said outside the Carl B. Stokes U.S. Courthouse, flanked by Summit County Executive Ilene Shapiro and Cuyahoga County Prosecutor Michael O’Malley. “It is, though, a very good development for the people of our counties.”

A statement by the three distributors said the companies dispute the claims in the lawsuit but "they believe settling the bellwether trial is an important stepping stone to achieving a global resolution and delivering meaningful relief.

“The companies expect settlement funds to be used in support of initiatives to combat the opioid epidemic, including treatment, rehabilitation, mental health and other important efforts," the statement said.

Walgreens said the allegations it faced are different.

“We never manufactured, marketed or wholesaled prescription opioid medications. Our pharmacists have always been committed to serving patients in the communities where they live and work," the statement said.

Teva said it was “pleased to positively contribute to solving the nationwide opioid epidemic.”

The settlement is a major step, though far from the end, for more than 2,300 federal lawsuits filed over the opioid epidemic, mostly by city and county governments across the country. Others have filed cases in state court, making the litigation over the devastating epidemic one of the most complex in U.S. history. The counties’ trial was set to be a test case to see how future trials may play out.

The decision to settle before a trial where the counties were seeking more than \$8 billion comes after days of negotiations, which previously culminated in a set of talks in front of U.S. District Judge Dan Polster on Friday to try and broker a settlement for the counties’ cases and others nationwide. Those talks [ended without an agreement](#), and state attorneys general and city and county lawyers pointed fingers on why talks failed.

Hunter Shkolnik, a New York lawyer hired to represent Cuyahoga County, said talks to negotiate an end to the two Ohio counties' cases started up again Sunday.

While talks continued and even after the agreement was reached with the four companies, trial preparations continued after midnight Monday in the plaintiffs' war room at Post Office Plaza in downtown Cleveland because of questions over whether Walgreens would also settle, Summit County's attorney Don Migliori said.

At that point, he described the mood as "a little giddy."

Henry Schien, a sixth defendant, [separately reached an agreement](#) worth \$1.25 million to dismiss the claims against them, the New York-based company announced Monday morning. That involves \$1 million to develop an educational foundation and \$250,000 for Summit County's attorneys' fees.

The medical and dental supply distributor was only named in one of the two counties' lawsuits. Summit County attorney Joe Rice, who also serves as a lead lawyer for all the cities and counties, said Sunday that his team planned to drop Henry Schein from the case. The company is drastically smaller than the other three distributors.

Polster took the bench Monday to announce the settlement. The judge, who helped attorneys pick a 12-member jury last week, said that "this would have been a very, very interesting trial to preside over," though he has made clear he would like to see a settlement for the thousands of cases over which he presides.

The lawsuits largely accuse drugmakers of downplaying the addiction risks of opioids and distributors of not flagging suspiciously large pill orders. All the while, the number of overdoses in the U.S. skyrocketed and led to hundreds of thousands of deaths.

The drug companies have denied legal liability and said they followed all applicable federal regulations. In addition to the settlements reached Monday, four other drugmakers have settled with Cuyahoga and Summit

counties. With the new settlements, the counties' settlements are worth more than \$325 million.

OxyContin maker Purdue Pharma also reached a deal for all the lawsuits it faces nationwide that could be worth up to \$12 billion.

Polster said he would like the mass settlement talks to continue, so those involved "don't lose the momentum that was created."

Attorneys general in North Carolina, Pennsylvania, Tennessee and Texas said Monday that they had reached a tentative deal with AmerisourceBergen, Cardinal Health, McKesson, Teva and Johnson & Johnson worth more than \$48 billion to resolve all the lawsuits the companies face nationwide. The future of the deal, which would require other states and municipalities to buy in, was unclear, as lawyers for municipalities did not agree to a substantially similar deal during talks Friday.

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