



Ohio opioid settlement could set precedent for California cases

By [ASSOCIATED PRESS](#) & SAMMY CAIOLA · OCTOBER 25, 2019

Following a major settlement in Ohio this week, California counties could be a step closer to getting the drug industry to pay for damages associated with the opioid epidemic.

The nation's three biggest drug distributors and a major drugmaker reached an 11th-hour, \$260 million settlement over the toll of the opioids in two Ohio counties, averting what would have been the first federal trial over the crisis.

The settlement was announced just hours before the trial was scheduled to start, with a jury selected last week.

The trial involved only two counties — Cleveland's Cuyahoga County and Akron's Summit County — but was seen as an important test case that could gauge the strength of the opposing sides' arguments and prod them toward a nationwide settlement.

Across the country, the drug industry is facing more than 2,600 lawsuits brought by state and local governments seeking to hold it accountable for the crisis that has been linked to more than 400,000 deaths in the U.S. over the

past two decades. A federal judge in Ohio has been pushing the parties toward a settlement of all the lawsuits for nearly two years.

The agreement announced Monday calls for the distributors AmerisourceBergen, Cardinal Health and McKesson to pay a combined \$215 million, said Hunter Shkolnik, a lawyer for Cuyahoga County.

Israeli-based drugmaker Teva would contribute \$20 million in cash and \$25 million worth of Suboxone, a drug used to treat opioid addiction.

"People can't lose sight of the fact that the counties got a very good deal for themselves, but we also set an important national benchmark for the others," Shkolnik said.

The deal contains no admission of wrongdoing by the defendants, said Joe Rice, a lead plaintiffs' lawyer.

But it could turn up the pressure on all sides to work out a nationwide settlement, because every partial settlement reached reduces the amount of money the companies have available to pay other plaintiffs.

Michelle Mello, a Stanford University law professor who's been tracking the cases, says a larger settlement is likely.

"That's everybody's goal at this point, is to come up with a number that extinguishes the claims for all the companies left in this multi district litigation," she said.

In California, that includes more than 30 cities and counties. The state is also filing a suit with other attorneys general.

After the new settlements and previous ones with other drugmakers, the only defendant left in the trial that had been scheduled for Monday is the pharmacy

chain Walgreens. The new plan is for Walgreens and other pharmacies to go to trial within six months.

Monday's settlement removes the risks and uncertainties involved in a trial for both sides: The counties immediately lock in money they can use to deal with the crisis, and the drug companies avoid a possible finding of wrongdoing and a huge jury verdict.

William Litt, deputy county counsel for Monterey County, said a cut from a larger settlement could potentially help public health officials build up prevention programs.

“It would increase resources for the treatment of the opioid epidemic, and perhaps create some dedicated positions to deal with the fallout,” he said.

He mentioned using the money to support juvenile services or the coroner’s office.

Around the country, public health officials who’ve been fighting the opioid epidemic and people who’ve been personally affected by it are wondering what restitution would look like.

"There's no amount of money that's going to change the devastation and destruction that they've done to families not only all across our county but all across the country," said Travis Bornstein, who was preparing to testify in the Cleveland trial. But he said the settlement should help provide services for people who are struggling.

Bornstein said his son, Tyler, became hooked on opioids as a teenager after receiving a prescription after surgery on his arm and died from a heroin overdose five years later, in 2014.

Better funding for treatment programs might have helped his son, who was on a waiting list for a county treatment program when he died, Bornstein said.

The settlement also means that the evidence prepared for the trial won't be fully aired.

Lawyers for the counties were preparing to show the jury a 1900 first edition of "The Wonderful Wizard of Oz," featuring the poisonous poppy fields that put Dorothy to sleep, and a 3,000-year-old Sumerian poppy jug to show that the world has long known the dangers of opioids.

U.S. District Judge Dan Polster, who is overseeing the mountain of lawsuits, has long pushed for a coast-to-coast settlement that would provide money for treatment and other expenses associated with the crisis and force the industry to change its ways.

The plaintiffs have accused the industry of aggressively marketing opioids while downplaying the risks of addiction and turning a blind eye toward suspiciously large shipments of the drugs. The industry has denied wrongdoing.

Industry CEOs and attorneys general from four states met Friday in Cleveland, where the offer on the table was a deal worth potentially \$48 billion in cash and drugs to settle cases nationally.

But they couldn't close the deal, partly because of disagreements between state and local governments over how to allocate the settlement, which would have come from the three big distributors, Teva and Johnson & Johnson.

In a statement, the attorneys general from North Carolina, Pennsylvania, Tennessee and Texas, which are leading those talks, said that effort will continue — and that the Ohio settlement helps.

"People in every corner of the country have been hurt by this crisis, and it is critical that settlement funds be distributed fairly across states, cities and counties and used wisely to combat the crisis," they said.

In a statement, the three big distributors said they dispute the counties' accusations but agreed that the settlement could help clear the way for a bigger one.

OxyContin maker Purdue Pharma, often cast as the biggest villain in the crisis, reached a tentative settlement last month that could be worth up to \$12 billion. But half the states and hundreds of local governments oppose it. It remains to be seen whether the settlement will receive the approvals it needs.

In a statement, Walgreens noted in its defense that it distributed opioids only to its own pharmacies, something it says differentiates the company from others in the industry.

"We never sold opioid medications to pain clinics, internet pharmacies or the 'pill mills' that fueled the national opioid crisis," the company said.

CapRadio's Sammy Caiola contributed to this report.

[ORIGINAL ARTICLE](#)