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2 More NJ Towns Bring Suits Against Makers of Opioids

Irvington and Ridgefield are the latest towns in New Jersey to bring suits against drug companies over their alleged roles in the opioid addiction crisis.

By Charles Toutant | December 05, 2017



Irvington and Ridgefield are the latest towns in New Jersey to bring suits against drug companies over their alleged roles in the opioid addiction crisis.

The newest suits show that the largest cities are not the only places that are seeking to recoup costs to taxpayers for the consequences of opioid abuse.

The Irvington and Ridgefield suits follow actions against drug companies [by New Jersey](https://www.law.com/njlawjournal/sites/njlawjournal/2017/10/31/nj-sues-purdue-pharma-over-opioid-sales-practices/?back=law) (<https://www.law.com/njlawjournal/sites/njlawjournal/2017/10/31/nj-sues-purdue-pharma-over-opioid-sales-practices/?back=law>) as well as Newark, the state's largest city, and Paterson, its third-largest. But Irvington is far smaller, with a

population of 53,926, and Ridgefield is smaller still, with 11,032 residents.

Mounting litigation prompted Tuesday's order by the Judicial Panel on Multidistrict Litigation (<https://www.law.com/nationallawjournal/sites/nationallawjournal/2017/12/05/mdl-panel-orders-all-federal-opioid-cases-to-ohio/>) to consolidate federal suits over prescription opiates to the Northern District of Ohio.

Irvington filed its suit (<http://www.almcms.com/contrib/njlawjournal/irvington-opioid/>) on Nov. 28 in U.S. District Court in Newark against manufacturers and distributors of opiates. Ridgefield filed its suit in state Superior Court in Bergen County on Nov. 8.

Irvington is represented in its suit by two Roseland, New Jersey, firms: Carella, Byrne, Cecchi, Olstein, Brody & Agnello and Critchley, Kinum & Denoia. **Ridgefield's suit was filed by Shayna Sacks of Napoli Shkolnik in New York.**

The Irvington suit brings claims for violation of the New Jersey Consumer Fraud Act, the Racketeer Influenced and Corrupt Organizations Act, and for negligence and public nuisance. The suit also says the defendants, through a group called Pain Care Forum, lobbied for legislation that made it more difficult for the federal Drug Enforcement Agency to penalize manufacturers and distributors for failure to report suspicious orders of opioids.

That case also claims the defendants thwarted appropriate responses to opioid addiction by advancing a concept called pseudoaddiction, in which patients exhibiting signs of addiction were encouraged to increase their dosage of painkillers.

Irvington's complaint says that the defendants' actions have caused it to suffer "significant economic damages, including but not limited to increased health services costs, and costs related to responding to and dealing with opioid-related crimes and emergencies."

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The Ridgefield suit describes a group called the American Pain Foundation, which was funded by the defendants and engaged in public relations and grassroots lobbying against legislation that might limit opioid prescribing. The American Pain Foundation represented itself as independent but worked closely with the defendants, the suit claims. The group was shut down in 2012 after the U.S. Senate Finance Committee began to investigate its links to the opioid industry, the suit claims.

The Ridgefield suit, which runs to a hefty 243 pages, brings claims under the New Jersey Consumer Fraud Act for deceptive acts and practices, false promises and misrepresentations and knowing omissions of material facts. The suit also has claims for public nuisance, fraud, unjust enrichment and negligence.

The Ridgefield suit describes the defendants' marketing of their products to vulnerable groups such as the elderly and military veterans. A book that was purportedly the memoir of one returning veteran, "Exit Wounds: A Survival Guide to Pain Management for Veterans," was funded by Purdue Pharma, Janssen Pharmaceutica and Endo Health Solutions.

The Ridgefield and Irvington suits name most of the same defendants, including Purdue, Teva Pharmaceutical, Cephalon Inc. Janssen, Actavis Pharma, Endo, Insys Therapeutics, Janssen Pharmaceutica, McKesson Corp., Cardinal Health Inc. Amerisource Bergen and Mallinckrodt LLC.

Lawyers filing the Irvington and Ridgefield suits did not return a reporter's calls. But more municipalities will be filing similar cases soon, said Andrew D'Arcy of D'Arcy Johnson Day in Egg Harbor. He filed the Newark suit along with Motley Rice of Mount Pleasant, South Carolina.

And D'Arcy says his firm and Motley Rice expect to file additional opioid suits shortly on behalf of four other municipalities, all in Ocean County: Brick, Berkeley, Lacey and Toms River.

A Janssen Pharmaceuticals spokesman, William Foster, said about the cities' litigation, "Responsibly used opioid-based pain medicines give doctors and patients important choices to help manage the debilitating effects of chronic pain. At the same time, we recognize opioid abuse and addiction is a serious public health issue that must be addressed. We believe the allegations in lawsuits against our company are both legally and factually unfounded. Janssen has acted in the best interests of patients and physicians with regard to its opioid pain medicines, which are FDA-approved and carry FDA-mandated warnings about possible risks on every product label. According to independent surveillance data, Janssen opioid pain medicines consistently have some of the lowest rates of abuse among these medications, and since 2008 the volume of Janssen opioid products always has amounted to less than one percent of the total prescriptions written per year for opioid medications, including generics. Addressing opioid abuse will require collaboration among many stakeholders and we will continue to work with federal, state and local officials to support solutions."

The JPML said that plaintiffs in the 46 suits that were the subject of its transfer motion were all political subdivisions, but the order will apply to tag-along actions by individuals, consumers, hospitals and third-party payers. The JPML said that the suits all implicate common fact questions as to the marketing and distribution of prescription opiates, and discovery likely will be voluminous. The panel said centralization "will substantially reduce the risk of duplicative discovery, minimize the possibility of inconsistent pretrial obligations, and prevent conflicting rulings on pretrial motions. Centralization will also allow a single transferee judge to coordinate with numerous cases pending in state courts."

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