

https://www.cnhinews.com/oklahoma/article_5cbfc48c-e495-11e9-9772-dbf89d77029f.html

Oklahoma's opioid trial is over, but legal battles against drug companies persist

By Kassie McClung | The Frontier Oct 1, 2019 Updated Oct 1, 2019



The Frontier

[f](#)
[t](#)
[G+](#)
[in](#)
[p](#)
[@](#)



Oklahoma's trial against drug and consumer products giant Johnson & Johnson ended with a multimillion-dollar judgment last month, but legal battles against drug companies are far from over.

More than 60 cities, counties and tribes in the state are in the midst of their own litigation against drug companies such as Purdue Pharma and Johnson & Johnson in state and federal courts. The vast majority of those have been consolidated in a federal court in Ohio, joining almost 2,000 other

cases.

Those local governments had the option to participate in the state of Oklahoma's \$270 million settlement agreement with Purdue, which was reached outside of court in March. Instead, they decided to roll the dice and continue to go after Purdue on their own. From the settlement, \$12.5 million was set aside for local governments to combat the opioid epidemic.

Paul Napoli, of Napoli Shkolnik, a national private law firm representing many counties and states, including 11 counties in Oklahoma, said he believes that move will pay off.

"Eventually, I think that will be a wise move... I think on a county-by-county basis, they're going to do better on their own," Napoli said.

George Gibbs, a Tulsa-based attorney representing 11 Oklahoma counties in partnership with Napoli, said in April he believed more money could be obtained from Purdue drug companies.

Purdue, shortly after reaching a tentative settlement with many state and local governments, filed for bankruptcy protection last month. The company, in a news release, said the settlement is estimated to provide more than \$10 billion to state and local governments to help address the opioid crisis.

However, Richard Ausness, a professor of law at the University of Kentucky who tracks opioid cases, said he believes local governments in Oklahoma pursuing Purdue should have participated in the state's settlement.

"They probably wouldn't get much, but they would get it sooner," Ausness said. "It might be years before a resolution."

Local governments are seeking funds from many of the same companies the state of Oklahoma did in its case. They also filed against companies the state didn't, such as CVS and Walgreens.



The Frontier is a nonprofit focusing on investigative and watchdog journalism. For more information or to donate, go to www.readfrontier.org.

“There’s a lot of double dipping going on now,” Ausness said. “I’m sure if there is any sort of settlement agreement that it will address that issue, so that there isn’t a double-dipping problem. The problem is you have so many claimants and so many pathways.”

Further complicating the cases, Johnson & Johnson and other drug makers are looking to participate in Purdue’s bankruptcy to settle cases against them, The Wall Street Journal reported on Monday.

In Ohio, where cases have been consolidated, a trial is set under U.S. District Judge Dan Aaron Polster for late October for claims from the state’s Cuyohoga and Summit counties. Napoli, who represents Cuyohoga County, said because of the pending bankruptcy, Purdue won’t be one of the defendants.

“It’s unlikely Purdue will ever be at trial again because of the bankruptcy filing,” Napoli said. “but they will certainly be made to pay.”



Oklahoma’s trial took place at the Cleveland County Courthouse — less than a mile from the University of Oklahoma’s campus in Norman. KASSIE McCLUNG/The Frontier

Johnson & Johnson appealing

Meanwhile, Johnson & Johnson is appealing the [\\$572 million judgment](#) against the company and its subsidiaries for fueling Oklahoma's opioid crisis. Attorneys for the state had asked the company to pay about \$17.5 billion over 30 years to "clean up" the state's opioid addiction problem.

Attorneys for Johnson & Johnson filed an appeal with the Oklahoma Supreme Court last week, arguing the judgment was an "unprecedented" misapplication of the state's public nuisance law.

"Without analysis, the court found Janssen liable for the entirety of a complex crisis implicating a multitude of criminal, governmental, and medical actors," attorneys for Johnson & Johnson and its subsidiaries wrote in the [58-page appeal](#).

Johnson & Johnson, through an emailed news release, announced its intention to appeal Cleveland County District Judge Thad Balkman's decision just moments after the judgment was announced in a Norman courtroom in late August following 33 days of a non-jury trial.

Attorneys for the state of Oklahoma built the case entirely around the claim Johnson & Johnson and its subsidiaries created a public nuisance by fueling the state's opioid crisis. The public nuisance claim argues the opioid epidemic has affected the health of communities at large and not only individual drug users.

Teva Pharmaceuticals settled with the state shortly before the trial started in May for \$85 million.

The Frontier is a nonprofit focusing on investigative and watchdog journalism. For more information or to donate, go to www.readfrontier.org.

Conversation

FOLLOW



Join the conversation

LOG IN | SIGN UP

ALL COMMENTS 0

Newest ▾

