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## Monroe County poised to join long list suing companies that produce opioid medications

By Patti Singer | November 29, 2017



*(Photo: BackyardProduction, Getty Images/iStockphoto)*

Monroe County is likely to announce in the next few weeks that it will join the list of New York counties — most recently Livingston — looking to recoup some of the money they say they’ve spent on law enforcement, treatment and family court services related to opioids by suing the companies that make and promote the medication.

The county is finalizing its legal strategy and will announce next steps in the near future, according to an email from spokesman Jesse Sleezer.

"Monroe County continues to aggressively combat the heroin and opioid epidemic in our community," he continued in an email. "To that end, the county will soon join a lawsuit against the appropriate parties."

The Livingston County Board of Supervisors voted unanimously in mid-November to pursue legal action against manufacturers and others who the board claims made and promoted opioids in an unsafe manner.

"We feel this is a movement and there is momentum to it, so shame on us for not trying to help our county with all the expense we, too, have incurred," said Livingston County Attorney Shannon Hillier about their decision.

The USA Today Network reported a few weeks ago that 10 counties in the state, including Tompkins and Seneca, said they would sue. The New York State Association of Counties (NYSAC) has been encouraging counties to consider action, and [more than 40 state attorneys general, including New York’s Eric Schneiderman](#), have demanded the drug makers turn over documents related to marketing their product. [Nationwide, more than 100 counties have plans to sue](#), according to the National Association of Counties.

Stephen Acquario, executive director of the association of counties, said there is no deadline for counties to file suit.

"When Monroe County and any New York county truly understands the marketing and distribution practices of the manufacturers and the distributors, they will be looking at this very carefully and then proceeding to join the litigation," Acquario said. "I would anticipate Monroe to enter into this."

Wayne County Administrator Rick House said he is not feeling pressure to make a decision. "We're not going to jump on board that train because that's what others are doing."

He said the topic of filing a lawsuit will be discussed next week in committee and depending on the outcome, a resolution could be brought to the full board of supervisors.

"Everybody understands the crisis we're in the midst of," House said. "I think a lot of jurisdictions are looking at going to the source. That may be a viable option. ... We're walking softly. Is this the way to approach the issue, what are the ramifications and what are we signing on to?"

[Watch: How to use naloxone to reverse an opioid overdose](#)

Calls to the Ontario County administrator on the issue were not immediately returned.

Investigators will help document expenses

Livingston County voted to retain the New York City firm Napoli Shkolnik on a contingency basis. The firm is one of two in the state that solicited counties. County attorney Hillier said she received material from both those firms, but only Napoli Shkolnik responded to her inquiries. She said she was concerned that a lawsuit would end up in finger-pointing to doctors, but she said the firm assured her that would not be the case.

Hillier and Livingston County Administrator Ian Coyle said the county has incurred costs related to first responder and other medical services, treatment in the county jail, and foster care and adoption services.

From January through March 2017, Livingston did not record an opioid overdose death. However it had nine opioid overdoses that resulted in outpatient emergency department visits, according to preliminary data from the state Department of Health. In 2016, Livingston had eight opioid overdose deaths, 35 emergency department visits and 13 hospitalizations.

Hillier said details of the agreement with Napoli Shkolnik are being worked out. Once the contract is signed, Napoli Shkolnik will send investigators to help officials of various county departments to document expenses related to opioid abuse.

Livingston will not pay the firm. It will get a percentage of any settlement or award at trial.

Hillier said that at this point, the lawsuits have not been established as class action.

The action against opioid manufacturers is being compared to lawsuits against the tobacco industry in the 1990s.

“It’s an industry specific allegation of consumer fraud and marketing,” Acquario said. “That’s what makes the two alike.”

[More: Families acknowledge that addiction killed their loved one](#)

While it’s far too soon to know what Livingston — or any county — actually will reap, the analogy isn’t complete without noting there was no requirement that money paid by tobacco companies be used expressly to combat the effects of tobacco use.

“We will be advocating for the same distribution, that there should not be a string tied,” Acquario said.

He said other county services can suffer when money is shifted to fund a crisis, and that an influx can be used in the budget process to restore balance or to fund programs that address a pressing need.

“It’s all interrelated and interconnected, the revenues and expenditures of a county government,” he said.

Opioid deaths, hospitalizations, by county.

The following are preliminary data on deaths, outpatient emergency department visits and hospitalizations related to all opioid overdoses for some local counties that are, or may, consider legal action against opioid makers and distributors. The data comes from the October 2017 New York State — County Opioid Quarterly Report.

- Monroe County: 2016: 118 deaths; 468 ED visits; 127 hospitalizations. January to March, 2017: 4 deaths; 150 ED visits; 38 hospitalizations.
- Livingston County: 2016:8 deaths; 35 ED visits; 13 hospitalizations. January to March, 2017: 0 deaths, 9 ED visits; less than 6 hospitalizations.
- Ontario County: 2016: 11 deaths; 65 ED visits; 16 hospitalizations. January to March, 2017: 0 deaths; 24 ED visits; fewer than 6 hospitalizations.
- Wayne County: 2016: 7 deaths; 58 ED visits; 19 hospitalizations. January to March, 2017: 0 deaths, 10 ED visits, less than six hospitalizations.