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Rochester looks to become latest city to sue opioid makers, distributors

By Brian Sharp | March 3, 2019

Mayor Lovely Warren wants to sue manufacturers, distributors and others seen as contributing to the city and the nation's opioid epidemic.

In legislation sent to City Council, Warren seeks the go-ahead to retain a New York City law firm to assist in filing the lawsuit. Napoli Shkolnik PLLC would represent Rochester at no out-of-pocket cost to the city, the mayor says.

The state of New York, New York City, the city of Ithaca, and more than a dozen counties across the state, including Monroe, Seneca and Erie, have taken similar action. The first three cases are scheduled to go to trial in March 2020 in Suffolk County.

Opioid overdoses rose sharply across Monroe County last year, with 1,133 reported cases, compared with 766 in 2017. That is an average of three a day. But fatalities dropped to 166, from 220 the year before, officials reported earlier this year.



A New York New York state Supreme Court Justice ruled in June 2018 that lawsuits by counties against opioid makers can go forward. (Photo: Darwin Brandis, Getty Images/iStockphoto)

In a memo to council members, Warren wrote that the purpose of the lawsuit is "to recover damages in the form of increased expenses to the municipality and its taxpayers" caused by increased demands on the city's police and fire departments responding to opioid-related calls.

Napoli Shkolnik, in material provided to City Council, states that an individual suit would allow the city makes its own decision on any settlement and distribution of funds rather than ceding that control to the state.

City Council will consider the matter later this month.

The firm tracked what it said was a fourfold increase in opioid sales nationally from 1999 to 2010, purportedly tied to treatment of chronic pain and erroneous claims that the risk of addiction was low. The firm claimed more than 300 prescriptions for opioids such as hydrocodone were written in 2015 — enough to provide every American adult with their own bottle.

Napoli Shkolnik currently represents Cattaraugus, Chautauqua, Chemung, Nassau, Niagara, Rensselaer and Schuyler counties in New York, along with a host of other municipalities in West Virginia, Ohio, New Jersey and elsewhere. Monroe County is working with the firm Simmons Hanly Conroy, which has offices in Illinois and New York.

Monroe County's lawsuit alleges a "coordinated, sophisticated, and highly deceptive marketing campaign" by drug companies that began in the late 1990s, became more aggressive around 2006, and continues today. Barring a settlement, the litigation is expected to be tied up in the courts for years.

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