

The Conway Daily Sun

Lawyer: Carroll County can beat big pharma in court

By Daymond Steer | April 25, 2018

OSSIPEE — Carroll County commissioners finally learned who Strafford County commissioners are asking them to sue over the opioid crisis, and it turns out to be "pharmaceutical giants" not "pharmaceutical watchdogs" as the Carroll County commissioners were told previously.

A lawyer working on the case for Strafford County said the counties have a very good case.

County Administrator Ken Robichaud said he attended a New Hampshire Association of Counties meeting on April 6 and Strafford County officials invited other counties to join them in a lawsuit against unspecified entities Robichaud identified as "watchdogs."

At the meeting last week, Carroll County Commissioners still hadn't heard who those watchdogs were.

Before the meeting on Wednesday, Strafford County provided Carroll County commissioners with a letter outlining what they seek to do and also a proposed "engagement to represent."

"At a recent New Hampshire Association of Counties NHAC meeting we discussed the opportunity for New Hampshire Counties to join prominent national law firms in a class action lawsuit against the 'pharmaceutical giants,' wrote Strafford County Commissioners' Chairman George

Maglaras. "These suits challenge the pharmaceutical companies' distribution and marketing of opioid pain medication and the negative effect this had on the opioid crisis."

The counties incur expenses due to drug crime in terms of police work, prosecution and incarceration of offenders. The county government includes the county attorney's office, the jail and the sheriff's office.

Attorney Robert Bonsignore, of Bonsignore Trial Lawyers of Belmont, attended the Carroll County commissioners meeting Wednesday to answer questions. He said he would be working with Napoli Shkolnik PLLC, which has offices nationwide. He said Strafford County and other counties and cities across the U.S. have expressed interest. More than 100 cases have been filed already.

Commissioner Mark Hounsell (R-Conway) asked why there were two law firms named on the engagement proposal.

"When we have a case this big it's never one law firm that brings it forward," said Bonsignore, adding he would provide "local boots on the ground."

Chairwoman Amanda Bevard (R-Wolfeboro) said the county is in a drug crisis. She wanted to know who Strafford was planning on suing.

Bonsignore said their complaint is 290 pages long and it will be filed in a few days. He said major pharmaceutical companies are named and more are being added.

"The reason why we put the major players in is to underscore how much they are making at the expense of the counties and the families within the counties," said Bonsignore. "They are making billions. They are paying \$100 million fines like it's a parking ticket, like if you ran into Dunkin Donuts and parked in the wrong spot, and they don't care."

Bonsignore provided the Sun with a slideshow style presentation that describes the proposed suit in greater detail. Among the defendants listed

as manufacturers and marketers of prescription opioids are Allergan, Endo Health Solutions, Insys Therapeutics, Johnson & Johnson, Purdue Pharma and Teva Pharmaceuticals USA. Distributors of prescription opioids are listed as McKesson Corporation, Cardinal Health Inc. and Amerisource Drug Corporation.

Claims that they would bring involve violations of the Consumer Protection Act, violations of the state-controlled substances act, public nuisance, negligence, fraud and unjust enrichment.

The lawyers would seek 25 percent of the amount of money recovered and there would be no fee if nothing is recovered.

"You don't have to dig in your pocket ever for a penny," said Bonsignore. "This is no dig."

Hounsell asked what happens if they lose after a protracted court battle and Bonsignore said Carroll County would have no cost exposure.

"You can watch me cry," said Bonsignore adding he's lost only two big expensive cases and that one of them pertained to mercury in thermostats.

He confirmed again to the Sun that there would be no cost to the county if they lose the case.

"If we lose, we eat all costs, and there is no fee," said Bonsignore.

Bonsignore said he took a risk with the mercury case but he's more than 80 percent confident in the case against that Stafford is working on.

"I'm eager for this case to go forward," Bonsignore said.

Hounsell said the case draws attention to a "great wrong" caused by the opioid crisis. Hounsell said he heard a statistic that a regional hospital is reporting that 40 percent of babies are born with complications from substance abuse.

"It's getting out of hand and then some," Hounsell said. "This case allows us to highlight that we have been wronged in this area, and I think pharmaceuticals have to be held accountable."

He also answered questions from the Sun after the meeting. He said the suit would likely be filed in New Hampshire's Federal Court in Concord.

Carroll County Commissioners, looking at the documents, said they felt strongly that distribution of any award should be based on damages to the county rather than population size because Carroll County wouldn't get much with the former.

Carroll County Commissioners said they would take a week to think about Strafford's proposal, and Bonsignore confirmed they could do that.

"I'm not trying to rush," said Bonsignore.

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