



Nation's top pain doctors face scores of opioid lawsuits

By Roger Parloff, Editor in Chief, Opioid Watch | April 3, 2018

Four of the nation's leading pain doctors, who spearheaded a medical movement to treat chronic pain with opioid drugs, have been named as co-defendants in scores of lawsuits filed by cities and counties against opioid manufacturers.

The lawsuits allege that the doctors allowed themselves to be used by manufacturers, as part of a false, industrywide marketing campaign, thereby helping to instigate the public health crisis that has led to more than 300,000 opioid-related overdose deaths since 2000.

The key manufacturers named are Purdue Pharma (maker of OxyContin); Teva Pharmaceuticals (owner of Cephalon, maker of Actiq and Fentora); Johnson & Johnson (owner of Janssen, maker of Duragesic); Endo Health Solutions (maker of Opana, Percodan, and Percocet); and Allergan (formerly Activa, formerly Watson Laboratories, which sold Kadian).

The luminary doctors are Lynn Webster, Perry Fine, Scott Fishman, and Russell Portenoy. Because they allegedly accepted tens of thousands of dollars from opioid manufacturers—for research, consulting, speeches, honoraria, and continuing medical education seminars—and led organizations that also received substantial industry funding, plaintiffs lawyers assert that their messages became tainted, and that they overstated the drugs' efficacy and understated their risks in ways that were scientifically unsupportable.

A lawyer for Webster, Fine, and Fishman declined comment on the suits, as did Portenoy. The four doctors have asked judges to dismiss the accusations against them for failure to allege a legally recognizable claim. The co-defendant manufacturers have all denied wrongdoing.

Three pain authorities face more than 80 suits each

Three of the defendant doctors—Webster, Fine, and Fishman—are defendants in at least 80 of the more than 430 lawsuits now pending in federal court, and in a couple dozen more in state courts, according to two plaintiffs lawyers. The fourth, Russell Portenoy, a neurology professor at Albert Einstein College of Medicine and the chief medical officer at Manhattan’s MJHS Hospice and Palliative Care Center, has been named in a smaller number of cases, including at least 18 in federal court. Portenoy has been sued less often, a plaintiffs lawyer says, because he lacks insurance.

In the lawsuits, plaintiffs lawyers refer to the four doctors as “key opinion leaders,” or KOLs, a term used by the marketing departments of pharmaceutical companies for especially influential physicians they seek to influence. The manufacturers are said to have used the KOLs for “unbranded” marketing, thereby evading the strictures of branded marketing, which is closely supervised by the U.S. Food and Drug Administration.

“Although some KOLs may have advocated for permissive opioid prescribing with honest intentions,” alleges one typical complaint, filed in the Suffolk County supreme court in Central Islip, N.Y., “[manufacturers] cultivated and promoted only those KOLs who could be relied on to help broaden the chronic opioid therapy market... The KOLs knew, or deliberately ignored, the misleading way in which they portrayed the use of opioids to treat chronic pain to patients and prescribers.” (That complaint was authored by attorneys Paul Napoli, of Napoli Shkolnik, and Paul Hanly, Jr., of Simmons Hanly Conroy.)

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