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Business

## Purdue's Sackler Family Must Face Opioid Suits in New York

- Ruling is first to deny Sackler dismissal request, lawyer says
- U.S. states and counties have filed some 2,000 lawsuits

By Chris Dolmetsch

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The billionaire owners of Purdue Pharma LP must face a New York lawsuit claiming they triggered the U.S. opioid epidemic, a judge ruled, handing an early victory to states and local governments seeking to recoup billions of dollars in social costs from the drugs.

A state judge on Friday denied the Sacklers' request to dismiss the lawsuit, filed by 58 counties and two dozen cities in New York. The ruling, in Suffolk County on Long Island, is the first by any court denying a motion by the Sacklers to throw out a suit by a state or county and allowing for pretrial fact-finding to proceed against the individual defendants and their trusts, said Paul Napoli, an attorney representing the New York governments.

The ruling will require the Sacklers "to undergo depositions that will start to get to the bottom of their relationship between each other and their relationship to their conduct on the board and here in New York," Napoli said in an interview.

State and local governments have targeted the Sackler family's marketing of the Oxycontin painkiller, and their wealth, to recover the social costs of opioid

addiction, such as payments for opioid prescriptions and Medicaid benefits that wouldn't have been approved if the risks had been known. Some 2,000 suits against opioid makers have been consolidated in federal court in Ohio, and other cases are pending in state courts. The Sacklers were worth an estimated \$13 billion as of early March.

### **Profit Over Patients**

The Sacklers were separately sued over the addiction epidemic by New York Attorney General Letitia James in March, two days after Purdue agreed to pay \$270 million to settle similar claims by Oklahoma. James's suit, also in New York State Supreme Court, added the Sackler family to her complaint against Purdue and its biggest competitors and distributors, including Johnson & Johnson and Cardinal Health Inc.

New York says the defendants pushed doctors to issue prescriptions, lied about the risk of addiction and ignored red flags from suspicious pharmacies.

“Simply put, they put profit over patients,” James said at a news conference in March announcing the new claims. The Sacklers “profited off the suffering, the death of New Yorkers,” she said.

Purdue Pharma and a representative of the Sacklers didn't immediately respond to emails seeking comment on Friday's ruling, by Supreme Court Justice Jerry Garguilo.

“Expanding this baseless lawsuit to include former directors of Purdue Pharma is a misguided attempt to place blame where it does not belong for a complex public health crisis,” the family said in a statement about James's suit in March.

### **Directors' Liability**

Garguilo on Friday ruled that the court may have jurisdiction over the family “on the ground that some or all of them acted as Purdue's agents in perpetrating the alleged scheme.” He rejected the Sacklers' argument that they cannot be held liable for actions that can be attributed to the company's board of directors

as a whole or for the conduct of any other defendant unless they personally participated in the alleged wrongdoing.

Under New York law, he wrote, “a director may be held individually liable for a corporate tort if he or she participated in its commission or else directed, controlled, approved or ratified the decision that led to the plaintiff’s injury.”

Garguilo also rejected the family’s argument that the case was filed too late, saying the plaintiffs have “alleged a continuing wrong, perpetrated by all the defendants, involving deceptive marketing practices that began over a decade ago and that have continued up to the time of the commencement of this action.”

The ruling comes as a judge in Oklahoma is presiding over the first trial in which a state seeks to hold a drugmaker, Johnson & Johnson, responsible for contributing to the epidemic, a preview of how similar claims may play out in October. That’s when opioid-drug makers and distributors go on trial in Cleveland, where more than 1,900 such cases have been gathered before a federal judge, who has been pushing for a settlement.

The New York case is In Re Opioid Litigation, Index No. 40000/2017, Supreme Court of New York, Suffolk County.

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