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## Ohio AG, 'It's Never Too Late to Follow the Law'

SARA E. TELLER — September 12, 2019



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- f Ohio AG Dave Yost tries to halt opioid trial scheduled for October 21.**



Two Ohio counties, Summit and Cuyahoga, are set to go to trial next month in the consolidated opioid litigation taking place in federal court in Cleveland, Ohio under the direction of Judge Dan Polster, and Ohio Attorney General Dave Yost believes this will put the individuals in his state – one that has been hit especially hard by the nationwide epidemic – at a significant disadvantage.

The counties have alleged they've "spent billions of dollars to deal with the opioid crisis and have litigated for two years to hold opioid defendants accountable." However, Yost contended that "Ohio's opioid problem is statewide. So, the liability of companies that make and sell prescription opioids should be determined in a statewide case" to "protect his sole authority to prosecute claims stemming from Ohio's opioid epidemic."



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Yost recently filed a mandamus petition at the 6th U.S. Circuit Court of Appeals asking it to enjoin U.S. District Judge Dan Polster of Cleveland from proceeding with a trial slated for October 21st. According to his petition, only the attorney general is "vested with the authority to prosecute claims that affect the health and comfort of people across the state."

"The bellwether trial will cripple the federal dual-sovereign structure of these United States," the petition suggested, "by permitting a federal judge to usurp Ohio's power to prosecute claims of harm to its citizenry."

Yost added, "They're taking pieces of our case and rushing to court. That's not good for Ohio."

He said Polster, who has been advocating for settlements, "is allowing MDL plaintiffs to capitalize on the leverage of the looming bellwether trial, to the detriment of state AGs litigating their own state-court cases against many of the same defendants....Ohio can't settle its own cases against opioid defendants because defendants are also worrying about claims by local governments in the MDL." Yost has also objected to the formula for allocating settlement money, which he said, "interferes with states' rights to decide for themselves how to divvy up the funds."

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Plaintiffs' attorney Paul Geller of Robbins Geller Rudman & Dowd said he considers Yost to be an "outlier," adding, he "was puzzled by the timing of the Ohio AG's petition, given that Summit and Cuyahoga counties have been litigating for two years to push their cases to a bellwether trial date." And, Cuyahoga County counsel Hunter Shkolnik said of AGs who attempt to cut the MDL plaintiffs out of settlement negotiations, "They are acting like pirates, coming in to take the spoils of the hard work we've done. To step in now and say, 'We're going to pass laws to take over the case,' or 'We're going to the appellate courts to take over the case,' smacks of a power grab."

Yost said his office "has been studying the question of the state's sovereign authority to prosecute opioid claims since he took office in January...His mandamus petition should not have come as a surprise, considering that it reiterates arguments that he and other AGs asserted in June when they objected to a prospect of a negotiating class in the MDL." He added, "It's never too late to follow the law."

## Sources:

As Ohio AG tries to shut down opioid bellwether trial, MDL leaders say he's 'outlier'

Ohio attorney general sues to stop upcoming opioid trials

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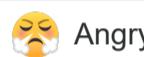
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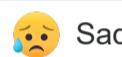
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## About Sara E. Teller

Sara is a credited freelance writer, editor, contributor, and essayist, as well as a novelist and poet with over sixteen years of experience. A seasoned publishing professional, she's worked for newspapers, magazines and book publishers in content digitization, editorial, acquisitions and intellectual property. Sara has been an invited speaker at a Careers in Publishing & Authorship event at Michigan State University and a Reading and Writing Instructor at Sylvan

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