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PBC waits for opioid case to go to trial. But multi-million-dollar ruling gives hope.

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Palm Beach County first sued drug distributors and manufacturers in April 2018. Where is the case now, almost a year and a half later?

A year and a half after suing three doctors and a slew of drug distributors and manufacturers for their alleged roles in fueling the opioid crisis, Palm Beach County must still wait for its day in court — along with almost 2,000 other interested parties.

But the first “bellwether” trial that could signal the success or failure of similar cases filed by local governments against pharmaceutical firms is set to begin Oct. 21 and is expected to last seven weeks, Palm Beach County Attorney Denise Nieman told county commissioners in early August.

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The October trial in a northern Ohio courtroom will pit Summit and Cuyahoga counties in Ohio against Purdue Pharma, the maker of OxyContin. Judge Dan Aaron Polster, who is overseeing the 2,000 federal cases, will preside over these cases.

On the heels of an August ruling in an Oklahoma court that said Johnson & Johnson must pay hundreds of millions, Palm Beach County Commissioner Melissa McKinlay — who was the county’s mayor when Palm Beach County filed its lawsuit in April 2018 — said it “sets a tone” for October.

“The Oklahoma settlement gives me great hope that other cases filed around the country will be successful. It certainly is a clear sign of the pharmaceutical industry involvement in the crisis they created,” she said.

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The Oklahoma case was the first state opioid case to go to trial, according to the Associated Press.

It ended with a judge ordering Johnson & Johnson and its subsidiaries to pay \$572 million for its role in Oklahoma’s opioid epidemic, the AP reported.

Although Oklahoma had sought \$17.5 billion against Johnson & Johnson and the judge only ordered the company to pay a little more than 3 percent, West Palm Beach attorney Gregory Coleman said it’s not a discouraging result. Rather, it’s typical.

“You don’t get what you don’t ask for,” said Coleman, who is not on Palm Beach County’s opioid legal team.

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As far as how this ruling may affect the 2,000 federal cases, Coleman said it’s unlikely.

“It doesn’t affect what the judge is going to do one way or the other. It may have an affect on the jury pool if it’s going to be a jury trial,” he said.

Nieman told commissioners that the county’s outside legal counsel — The Ferraro Law Firm, Napoli Shkolnik and Stull, Stull & Brody — is reviewing the Oklahoma decision.

According to a Washington Post analysis of U.S. Drug Enforcement Administration data, Palm Beach County’s lawsuit named three of the top five drug distributors — Walgreen Co., McKesson Corporation and CVS — and two of the top five manufacturers — Actavis Pharma and Purdue Pharma LP — that sent prescription pain pills to Palm Beach County between 2006 and 2012.

More than 390 million prescription pain pills were shipped to Palm Beach County in that time period, the Washington Post’s analysis showed.

That's enough for 43 pills per person per year, the Washington Post calculated.

Walgreen Co. based in Illinois distributed the most pills in this time period: 96.1 million. New Jersey-based Actavis Pharma Inc. was the top manufacturer in Palm Beach County with 155.7 million pills.

Purdue Pharma was fourth on the list of top manufacturers, with 12.9 million prescription pain pills in Palm Beach County between 2006 and 2012.

Before the Oklahoma trial, Purdue Pharma settled for \$270 million, and Teva Pharmaceuticals Industries Ltd. settled for \$85 million.

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Purdue Pharma had been discussing the possibility of another settlement, between \$10 billion and \$12 billion for the 2,000 federal cases, as first reported by NBC News.

Hunter Shkolnik, an attorney representing Palm Beach County in its opioid trial, said the legal team doesn't intend to settle.

"We were retained by Palm Beach County to try this case. We're trial lawyers," he said.

What can happen after this bellwether trial? It's up to the judge, Shkolnik said.

"It's our belief that the judge can't physically try all these cases," he said.

Shkolnik predicts that the judge could send the cases back to their regional federal jurisdictions to be tried — right back where Palm Beach County began, and where the trial could rest in the hands of a local jury.

"While no amount will ever be enough for the more than 200,000 lives lost since this crisis began, [a monetary ruling] will certainly help provide more access to treatment, improve local community education and outreach efforts, and help fund the first responder, criminal justice, healthcare, homelessness and housing crises that occur as a result of the epidemic," Commissioner McKinlay said. "And, if appropriated correctly, ensure that babies born addicted have the followup care they may need as they grow."

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