



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: May 18, 2018
Submitted by: Town Councilor Bill Boyd
Department:
Speakers:

Date of Meeting: June 14, 2018
Time Required: 20 minutes
Background Info. Supplied: Yes: No:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input checked="" type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

NH Opioid Litigation

DESCRIPTION OF ITEM

Town Council to be presented with the details of the New Hampshire Opioid Litigation.

REFERENCE (IF KNOWN)

RSA:	Warrant Article:
Charter Article:	Town Meeting:
Other:	N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name:	<u>Bill Boyd</u>	Address:	
Phone Number:		Email Address:	<u>bboyd@merrimacknh.gov</u>

APPROVAL

Town Manager: Yes No Chair/Vice Chair: Yes No
Hold for Meeting Date: _____

PRESENTED BY



SWEENEY
MERRIGAN
LAW LLP

REBUILDING
COMMUNITIES TOGETHER

NEW HAMPSHIRE OPIOID LITIGATION

IN CONJUNCTION WITH:



GREENE KETCHUM
FARRELL BAILEY & TWEEL LLP

HPCB & D
Hill, Peterson, Carper,
Bee & Deitzler, PLLC

WHY US?

Our country is in the midst of a public health crisis stemming from a flood of opioids pouring into our cities and counties. These opioids are destroying our families, taking the lives of our loved ones, and sapping tax dollars and resources from our communities.

This opioid epidemic has been fueled by the greed of the corporate elite which includes drug manufacturers and distributors. Despite being required by federal and state law to detect and report “suspicious” orders of opioids they **chose not** to comply.

This has to stop. These companies need to be held accountable. We can help.

|| IN 2016 THERE WERE **OVER 42,249 DEATHS**
INVOLVING PRESCRIPTION OPIOIDS –
THIS IS 5X HIGHER THAN IN 1999

www.cdc.gov/drugoverdose/epidemic/index.html

ABOUT OUR LEGAL TEAM

We are unlike any other firm or attorney group. As opposed to some firms who are attempting to pursue this litigation on their own, we have formed a consortium comprised of some of the preeminent trial firms in the country that specialize in pharmaceutical litigation.

Our team, was not cobbled together to fight a single battle. Recognizing that the target defendants are some of the richest corporations in the country we are prepared to go the distance and hold them accountable.

We are leaders in opioid litigation having filed some of the first cases in the country and having cases already working through the courts. Currently representing more than 460 governmental entities, our Consortium has filed more opioid cases across the country than any other group and is currently representing clients in more than ten states. Throughout this process, our firms have worked together seamlessly and successfully.

Whether large or small, we are committed to representing local governments – cities, towns, and counties – and ensuring that they each are justly compensated for the public health crisis and costs imposed on them by the manufacturers and distributors of opioids.



Sweeney Merrigan | sweeneymerrigan.com

Boston-based Sweeney Merrigan Law brings two generations of experience to the team. Whether it is taking on some of the biggest companies in the world, or fighting for personal injury victims in Massachusetts, Sweeney Merrigan's award winning team is dedicated to protecting the communities they serve. Sweeney Merrigan has litigated many multi-million dollar cases successfully for their clients.



Rodman Rodman & Sandman | rrslaw.net

During the 1970s, Rodman, Rodman, & Sandman established themselves as pioneers in asbestos litigation, representing victims of mesothelioma and the debilitating pulmonary diseases that asbestos exposure can cause. Their earliest asbestos cases involved exposures at the Boston Naval and Bethlehem Steel Shipyards, after which we began to represent workers from shipyards across the country. Through the years, Rodman, Rodman, & Sandman has taken on Big Pharma, Big Tobacco, and oil giants on behalf of their clients.



Bianco Professional Association | biancopa.com

Bianco Professional Association has been a trusted advisor in legal and government relations practices for over 25 years. Bianco Professional Association recognizes that all three branches of government offer opportunities to advance a client's objectives. Bianco provides the highest quality legal, legislative, and consulting services to individuals, families, non-profits, small businesses, and large corporations.



Levin Papantonio | levinlaw.com

Levin Papantonio is a nationally recognized litigation firm that has built a reputation on its willingness to litigate to verdict complex disputes against some of the world's largest companies. The firm routinely litigates cases that require thousands of attorney hours and millions in expenses.



BARON & BUDD
PROTECTING WHAT'S RIGHT

Baron & Budd | baronandbudd.com

Baron & Budd, PC was founded in 1977 and has offices in Dallas, Austin, Baton Rouge, New Orleans, Los Angeles and San Diego. Baron & Budd is one of the largest and most accomplished plaintiffs' law firms in the country.



Greene Ketchum | greeneketchum.com

Greene, Ketchum, Farrell, Bailey & Tweel LLP is considered one of the most experienced regional firms in the fields of medical malpractice and coal mining accidents. Greene Ketchum played a prominent role in the financing and litigation of thousands of asbestos cases over the past 30 years. Their skilled advocacy has returned millions of dollars in verdicts for their clients in both trial settings and settlements.



McHugh Fuller | mchughfuller.com

McHugh Fuller Law Group, established in 2006, is a trial firm that specializes in complex litigation and trials in the health and medical fields. The firm functions as an elite trial team made up of experienced litigators and legal writers. The attorneys at McHugh Fuller have tried hundreds of cases, obtaining multi-million-dollar verdicts in courts throughout the country.



Hill, Peterson, Carper,
Bee & Deitzler, PLLC

Hill Peterson | hpcbd.com

Founded in 1980, Hill, Peterson, Carper, Bee & Deitzler has extensive legal experience along with a broad network of resources to undertake a wide variety of complicated claims including, but not limited to Mass Torts and Class Action Litigation, Defective Drug Litigation, and Opioid Distribution Liability.



Powell & Majestro | powellmajestro.com

Founded in 2002, Powell & Majestro has been a premier resource for clients who want experienced, dynamic legal representation. The firm handles complex litigation including the representation of individuals and others who are victims of consumer fraud or are injured by defective products. Powell & Majestro attorneys are nationally recognized for their work in serious injury claims and have successfully tried numerous civil cases to verdict in state and federal courts.

MULTI-DISTRICT LITIGATION (MDL)

In December 2017, the cases brought against opioid manufacturers and distributors were consolidated in front of Judge Dan Polster in the Northern District of Ohio into a multi-district litigation (“MDL”). The MDL process permits the temporary transfer of civil lawsuits to one district court for pretrial consideration and/or consolidation. This creates efficiency and consistency by reducing the risk of contrary legal opinions and by allowing for coordinated discovery.

OUR TEAM HOLDS FIVE KEY LEADERSHIP POSITIONS IN THE MDL

Our legal team led the way toward the creation of the MDL, in the best interests of our clients. The benefits to our clients include consistency in the legal rulings and opinions of the presiding judge, an efficient and coordinated discovery process, and lower costs by preventing redundant and repetitive efforts from being made at the client’s expense.

FOUR THINGS THAT SEPARATE OUR CONSORTIUM FROM OTHER FIRMS AND GROUPS:

1. Pioneers of the Wholesale Distributor Litigation

Our Consortium was the first to pursue litigation against the wholesale distributors on behalf of municipalities and filed the motion seeking formation of an MDL proceeding on behalf of the other public entity clients we represent.

Being the first to litigate these cases on behalf of counties and cities also means we have the most experience developing crucial evidence and litigating the common arguments being made by defendants. We have already conducted an in-depth investigation into the facts giving rise to potential liability of the opioid manufactures and distributors and are already engaged in focus groups and mock trials to test trial strategy and defenses.

2. Our MDL Leadership

The national law firms that comprise our legal team are considered giants in the MDL world and between them have been actively involved in most every major mass tort litigation since the days of asbestos. Between our firms we have 40 lawyers across the country currently working full-time on this project, with an additional 200 attorneys and hundreds of support staff at our disposal.

This experience, combined with our extensive client list, our opioid litigation experience, and our stature within the MDL community has led to us receiving five of the twenty-two leadership roles on the Opioid MDL including Co-Lead Counsel (Paul Farrell, Greene Ketchum), Co-Liaison Counsel (Troy Rafferty, Levin Papantonio), and three Plaintiff's' Executive Committee positions (Peter Mougey, Levin Papantonio; Roland Tellis, Baron & Budd; Mike Fuller, McHugh Fuller). This is an incredible benefit to our clients, ensuring that their community's cries for help are heard.

3. Former DEA and Exclusive Preeminent Witnesses

60 Minutes has aired several exposes that have highlighted the nefarious conduct of the pharmaceutical distributors and featured interviews of former DEA agents that have been retained by our Consortium under agreements that they testify exclusively for our group. (*The Whistleblower, Redemption*, 10/15/17).

Additionally, we have retained many of the country's preeminent experts in the fields of addiction medicine, pain management, epidemiology, public health, urban and rural blight, the economics of addiction, and others (e.g. Presidents of Medical Schools, Universities, and Pharmacy Schools, as well as the heads of several governmental agencies), many of whom have published extensively on the subject of the opioid epidemic. These experts will help determine the amount needed to implement a strategic plan that will compensate your community for past and ongoing damages.

4. Experienced Trial Lawyers

The members of our Consortium are all trial law firms with unmatched experience in pharmaceutical litigation. Unlike many firms, we are staffed, experienced, and able to take our clients' cases to trial, if the need arises. No matter the case, no matter the client, we will do what's best for each of them, whether that's taking the case to trial or negotiating a settlement.

OUR LEGAL TEAM WAS NOT CREATED SIMPLY TO WIN A SMALL BATTLE,

we have created a team, a partnership, that is made to win the war, and it is a war that must be waged on the opioid crisis and those that fuel it and profit from it.

We must hold the perpetrators of this crisis accountable and begin to rebuild our communities that have been ravaged by these drugs.

AN INDUSTRY CREATED EPIDEMIC

The manufacturers and distributors of prescription opioids have created this opioid epidemic by generating a population that is physically and psychologically dependent on opioids (the demand) and conspiring to provide floods of prescription opioids which are not medically necessary and will ultimately become available for illicit use or sale (the supply).

These manufacturers and distributors have been repeatedly investigated and sanctioned by regulators for abdicating their legal duties. For example, within the last several years alone, the largest opioid distributors in the nation, as well as certain manufacturers, have been fined hundreds of millions of dollars for their failure to report suspicious orders to the DEA and prevent diversion of these dangerous drugs. Many of these same defendants have been subject to prior litigation by states and counties arising out of the prescription opioid crisis.

However, the fines and prior litigation have not stopped the flood of opioids into our communities and have provided little - if any - relief to our communities.

For years, the distributors and manufacturers of prescription opioids have failed to report or halt suspicious orders, while funneling millions of pills into our communities.

MANUFACTURERS AND DISTRIBUTORS ARE RESPONSIBLE – THEY KNEW!

WHO ARE THE MANUFACTURERS?

- Purdue Pharma
- Endo Health Solutions
- Janssen Pharmaceuticals
- Mallinckrodt
- Cephalon
- Actavis
- Insys Therapeutics
- Teva Pharmaceuticals

WHAT DO THEY MANUFACTURE?

- Oxycodone
- Hydrocodone
- Fentanyl

WHO ARE THE DISTRIBUTORS?

The “Big Three”

- McKesson Corporation
- Cardinal Health
- AmerisourceBergen Drug Corp.

OTHER WHOLESAL DISTRIBUTORS

- Miami-Luken
- Masters Pharmaceuticals

PHARMACY DISTRIBUTORS

- Wal-Mart
- CVS
- Walgreens
- Rite Aid

OPIOID DISTRIBUTION SYSTEM - THE DISTRIBUTORS' AND MANUFACTURERS' RESPONSIBILITY TO PREVENT DIVERSION

To understand why these companies are liable for the epidemic that is crippling our country, it is helpful to know how the system of drug distribution is designed to work.

1970 CONTROLLED SUBSTANCES ACT (CSA)

Congress enacted this law to create a “closed system” for the distribution of controlled substances and designed to prevent diversion of legally produced substances into illicit markets. This act stripped the manufacturers of the ability to sell directly to retailers and created a link in the distribution chain between Big Pharma and pharmacies.

With this act, distributors and manufacturers became legally bound to identify, investigate, and report suspicious orders of opioids to authorities. These distributors and manufacturers have access to nonpublic data showing the volume and pattern of opioid sales nationwide and have a legal duty to spot and report red flags in the distribution chain to authorities and to halt suspicious orders before shipment.

These pharmaceutical companies are supposed to serve as the gatekeepers - the watch dogs - for preventing opioid abuse. However, for years, the distributors and manufacturers of prescription opioids have failed to report or halt suspicious orders, while continuously funneling millions of pills into communities.

Distributors and manufacturers of opioids systematically and fraudulently violated their statutory duties to prevent diversion of their drugs and to notify the DEA of suspicious orders. Through their scheme, the distributors and manufacturers of opioids repeatedly engaged in unlawful sales of painkillers, which, in turn, artificially and illegally increased the annual production quotas for opioids allowed by the DEA. In doing so, the manufacturers and distributors allowed hundreds of millions of pills to enter the illicit market, allowing them to generate obscene profits.

THE DISTRIBUTOR

The pharmaceutical distributors are the first line of defense and are supposed to play the role of “beat cops” in preventing the flow of controlled substances to illegitimate uses that can lead to abuse, addiction and blight.

Distributors are legally required to be on alert for suspicious orders by pharmacies – such as unusual size, frequency, or pattern – and to report these to the relevant authorities to be investigated.



Rather than controlling the flow of pills and alerting authorities to suspicious orders, the distributors have chosen to abuse their privileged position, lining their pockets by shipping massive quantities of drugs to pharmacies and dispensaries. They have breached the very industry standards they helped enact and that has led to our present-day epidemic.

McKesson, Cardinal, and their distributor cronies admit that they are the gatekeepers for preventing opioid abuse, stating: “distributors are uniquely situated to perform due diligence in order to help support the security of the controlled substances. . . and reduce the possibility that controlled substances within the supply chain will reach locations they are not intended to reach.” The distributors make this admission in the Industry Compliance Guidelines they themselves created to comply with legal mandates – and then wholly ignored.

Federal and state laws give cities and counties the means to hold these distributors accountable for their actions and to stop the influx of these powerful drugs.



In January 2017, McKesson, the largest drug distributor in the nation, was fined a record **\$150 million** by the federal government for its blatant failure to report suspicious orders in violation of federal law. Cardinal Health, another member of the “Big Three” drug distributors, was fined **\$44 million** for its own failures to report suspicious narcotic orders to the DEA.

THE MANUFACTURER

Manufacturers of controlled substances are under the same legal obligations as distributors to prevent drug diversion and are also required to notify DEA of suspicious orders. But they don't.

In July of 2017, the DEA for the first time sanctioned an opioid manufacturer for failing to report suspicious opioid orders. Pursuant to a memorandum of understanding between manufacturer Mallinckrodt and the DEA, Mallinckrodt paid a \$35 million civil penalty for violating federal laws that mandate suspicious order reporting.

CHARGEBACK SYSTEM/SCHEME

Mallinckrodt was caught operating what is known in the industry as a "chargeback" system. Mallinckrodt sold opioids to a wholesale distributor at a higher than usual price, and then offered the distributor a substantial rebate in exchange for the distributor's downstream customer sales information or "chargeback data". This chargeback data allows manufacturers, like Mallinckrodt, to obtain knowledge of suspicious opioid orders.

The "chargeback" system is not unique to Mallinckrodt. An investigation performed by our Consortium has discovered that this practice is widespread throughout the industry, and that manufacturers have embraced shipping suspicious orders of opioids as an integral part of their business model. Therefore, manufacturers of opioids such as Purdue Pharma, Teva, Endo, Cephalon, and Janssen may also be liable for opioid-related damages.

FALSE AND DECEPTIVE MARKETING CLAIMS

Before the 1990s, generally accepted standards dictated that patients should only use opioids short-term for acute pain. The use of opioids for chronic pain was discouraged or even prohibited due to evidence of patients developing a tolerance to opioids which lead to the serious risk of addiction and other side effects.

WE BELIEVE THAT MANUFACTURERS KNEW THEIR DRUGS WERE ADDICTIVE, BUT AGGRESSIVELY MARKETED THEM FOR THE TREATMENT OF CHRONIC PAIN THROUGH DIRECT AND INDIRECT MARKETING.

In spite of this evidence, opioid manufacturers have conducted, and continue to conduct, marketing campaigns designed to decrease the fear of prescribing opioids and to encourage and persuade doctors and patients that opioids can and should be used for chronic pain. This resulted in opioid treatment for a far broader group of patients who are much more likely to become addicted and suffer other adverse effects from the long-term use of opioids.

Manufacturers have also falsely touted the benefits of long-term opioid use, including the supposed ability of opioids to improve function and quality of life, even though no scientifically reliable evidence to support the manufacturers' claims existed.

**WHERE ARE THEY MAKING THESE CLAIMS?
THEY'RE NOT JUST SELLING ADDICTION QUIETLY IN A
DOCTOR'S OFFICE OR AT A MEDICAL CONFERENCE.
THEY'RE IN YOUR LIVING ROOM, ON YOUR COMPUTER,
AND IN YOUR MAIL. THEY'RE EVERYWHERE YOU ARE.**

These manufacturers spend
**MILLIONS OF DOLLARS
ON PROMOTIONAL
ACTIVITIES AND MATERIALS**
that falsely deny or trivialize
the risks of opioids while
OVERSTATING THE BENEFITS
of using them for chronic pain.

Manufacturers' false representations include:

1. downplayed the serious risk of addiction,
2. created and promoted the concept of "pseudoaddiction" when signs of actual addiction began appearing and advocated that doctors should treat the signs of addiction with more opioids,
3. exaggerated the effectiveness of screening tools to prevent addiction,
4. claimed that it is easy to manage opioid dependence and withdrawal,
5. denied the risks of higher opioid dosages, and
6. exaggerated the effectiveness of "abuse-deterrent" opioid formulations to prevent abuse and addiction.

CAUSES OF ACTION

The conduct outlined above showing the conduct of manufacturers and distributors of opioids supports several claims for damages. We propose filing lawsuits based on public nuisance, false marketing, RICO, and negligence, among other claims. Through these claims we will demand that the mega-corporations who caused this epidemic fund the clean-up efforts.

PUBLIC NUISANCE

Manufacturers and distributors of opioids have created an epidemic within our cities and counties and we will demand that they fund the abatement of this nuisance.

FALSE AND FRAUDULENT MARKETING

Manufacturers of opioids may be held liable for their false and fraudulent marketing activities that have directly led to and exacerbated the opioid epidemic. Claims here include negligent misrepresentation, civil conspiracy, fraud and fraudulent misrepresentation.

RICO (RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT)

Additionally, as more information becomes available on the distribution methods of opioid distributors and manufacturers, it becomes clearer that these entities were working hand-in-hand to maximize their profits at the expense of the health and well-being of American citizens. The federal RICO statute is the perfect tool to hold them accountable for the harm they have caused.

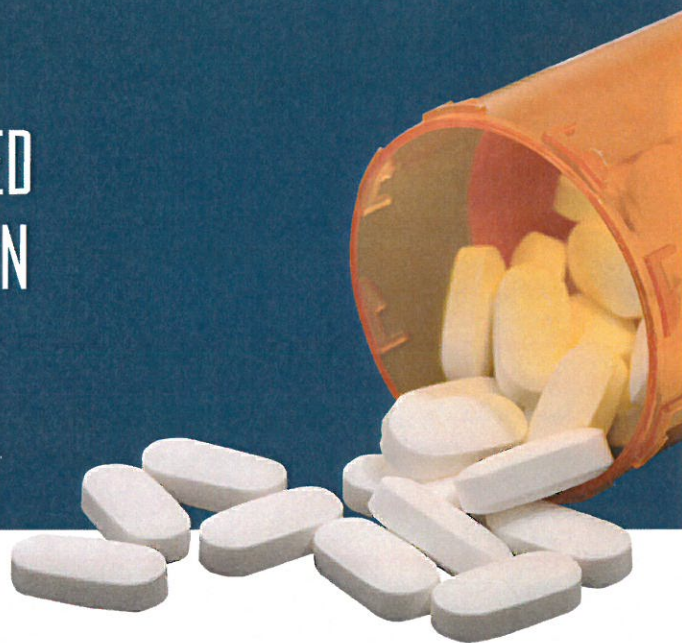
NEGLIGENCE

Finally, distributors and manufacturers also face liability for negligence. Federal regulations require distributors and manufacturers of opioids to be on the lookout for, detect, and report suspicious orders of opioids. Distributors and manufacturers violated industry standards of care by breaching their duty to identify and report suspicious opioid orders to the DEA or other relevant state agencies.

There is no doubt that these violations directly contributed to the opioid epidemic that is running rampant across the nation, and without question, substantial damages have been incurred by cities and counties. These costs should be borne by the negligent distributor and manufacturer defendants.

FOUR IN FIVE NEW HEROIN USERS STARTED OUT MISUSING PRESCRIPTION PAINKILLERS

(Jones CM. Heroin use and heroin use risk behaviors among nonmedical users of prescription opioid pain relievers - United States, 2002-2004 and 2008-2010. Drug Alcohol Depend. 2013 Sept)



POTENTIALLY RECOVERABLE DAMAGES

The companies' known violations of these laws give rise to strong claims for significant equitable and monetary relief. Potentially recoverable damages may include:

1. Money wrongfully paid for opioids through government-payor programs including employee insurance,
2. costs for providing medical care, additional therapeutic and prescription drug purchases, and other treatments for patients suffering from opioid-related addiction or disease, including overdoses and deaths,
3. costs for providing treatment, counseling, rehabilitation services,
4. costs for providing treatment of infants born with opioid-related medical conditions,
5. costs for providing welfare or protective services for children whose parents suffer from opioid-related disability or incapacitation, and
6. costs directly associated with law enforcement and public safety relating to the opioid epidemic. Local governments may also be entitled to injunctive relief to prevent further unlawful distribution of these drugs.

DAMAGE MODEL

WHAT IS RECOVERABLE FOR LOCAL GOVERNMENTS?

Our Consortium recommends pursuing a damage model that is aggressive, expansive, and encompasses both retrospective and prospective aspects. Our team of experts will help identify the impact of this crisis on your community.

A successful outcome would include action to address and end the current opioid crisis in addition to compensating your community for its past and ongoing damages resulting from defendants' conduct that caused the current opioid epidemic.

While they are not exact equivalents, good examples of the type of outcomes which we believe would be successful and achievable may be found in the tobacco and the California lead paint litigation. In both cases, governmental entities were awarded damages as well as ongoing relief to combat what was recognized to be a continuing crisis. Members of our Legal Team were instrumental in the tobacco litigation. The tobacco defendants continue to pay damages on an annual basis, totaling over \$200 billion, and the California lead paint defendants have been ordered to fund an abatement fund estimated to be \$600 million to \$1.15 billion in ten California counties and cities, based on the same public nuisance theory at the heart of our Legal Team's proposed case strategy.

Retrospectively, our lawsuit will seek to recover the funds that your community has already spent addressing the crisis. This will include funds spent on obvious and direct expenses, including:

- EMS and other first responders
- Drugs such as Naloxone (Narcan)
- Medical Examiner expenses
- Public Hospital expenses
- Increased law enforcement expenses
- Drug courts
- Increased jailing expenses
- Substance abuse programs (including education, prevention, and treatment)
- Increased expenses due to Child Welfare and Dependency docket associated with child welfare.

Prospectively, our lawsuit will ask (and then answer at trial) the question:

“What will it take to put your community and its citizens back into the position it was in before the opioid crisis began - how much will it cost to clean up the mess?”

There is no doubt that the target defendants in this litigation have created a public nuisance within your community and we will demand that these defendants foot the bill for abating that nuisance.

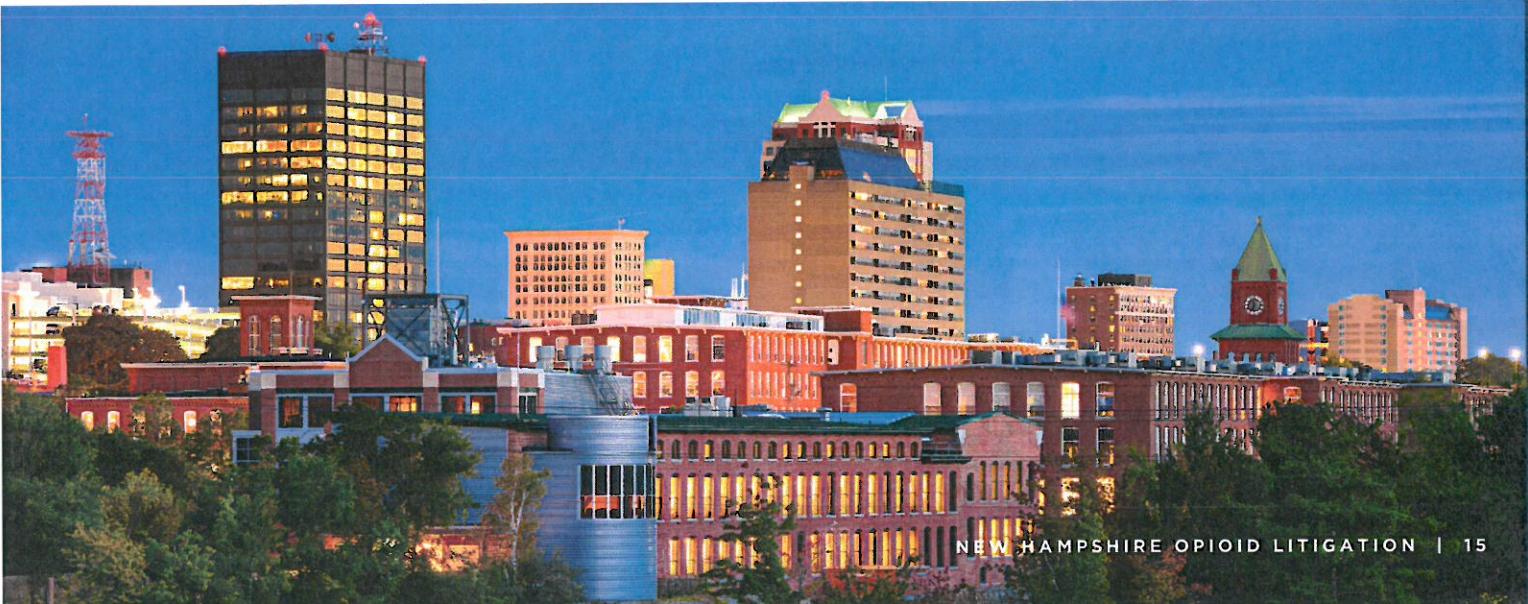
Our Consortium generally envisions an abatement fund covering three broad areas.

First, we believe funding for education is essential. It is important that we get into the school systems and ensure that children understand that the pills in their parent’s cupboards are just as dangerous as a heroin needle. They also need to understand that if a needle goes into their arm one time, it won’t be the last.

Second, funding is needed to support law enforcement and jailing so that the community can stay safe while your community works to addressing this crisis.

Third, and likely most importantly, to truly have a chance at rehabilitating the community funding is needed for healthcare and additional addiction recovery facilities that will help put an end to the cycle and plague of addiction. This will require extensive resources – and deservedly so.

**NO UP-FRONT COSTS
OUR CONSORTIUM WILL FRONT
ALL COSTS OF THE LITIGATION.
OUR CLIENTS PAY NO FEE
UNLESS WE RECOVER.**



SEVERITY OF THE OPIOID EPIDEMIC

Now that we know who and what created this epidemic, we need to understand how bad it is.

The Manufacturers' and Distributors' efforts have been wildly successful. Opioids are now the most prescribed class of drugs.

GLOBALLY, OPIOID SALES GENERATED
\$11 BILLION IN REVENUE
 FOR DRUG COMPANIES IN 2010

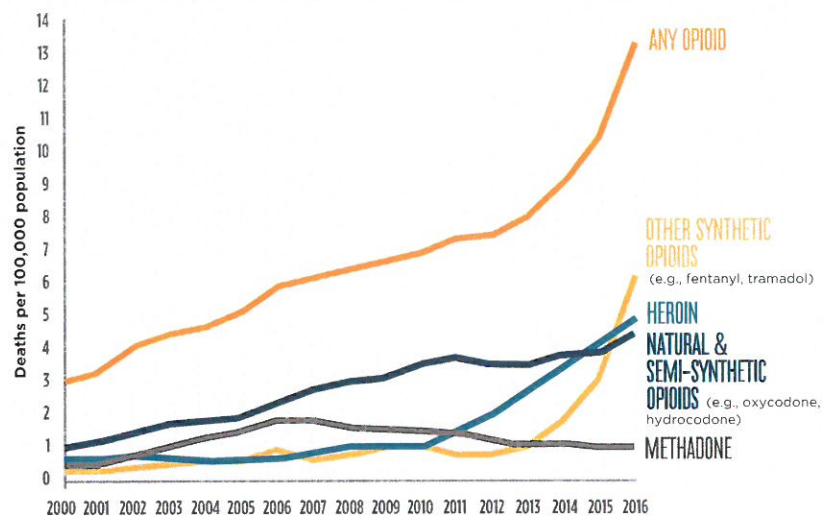
SALES IN THE UNITED STATES
EXCEEDED \$8 BILLION
 IN REVENUE ANNUALLY SINCE 2009

In an open letter to the nation's physicians in August 2016, the then-U.S. Surgeon General expressly connected this "urgent health crisis" to "heavy marketing of opioids to doctors . . . [m]any of [whom] were even taught - incorrectly - that opioids are not addictive when prescribed for legitimate pain."

This epidemic has resulted in a flood of prescription opioids available for illicit use or sale and a population of patients physically and psychologically dependent on them. **When those patients can no longer afford or obtain opioids from licensed dispensaries, they often turn to the street to buy prescription opioids or even non-prescription opioids, like heroin.**

OVERDOSE DEATHS INVOLVING OPIOIDS

by Type of Opioid, United States (2000-2016)




(CDC/NCHS, National Vital Statistics System, Mortality. CDC WONDER)

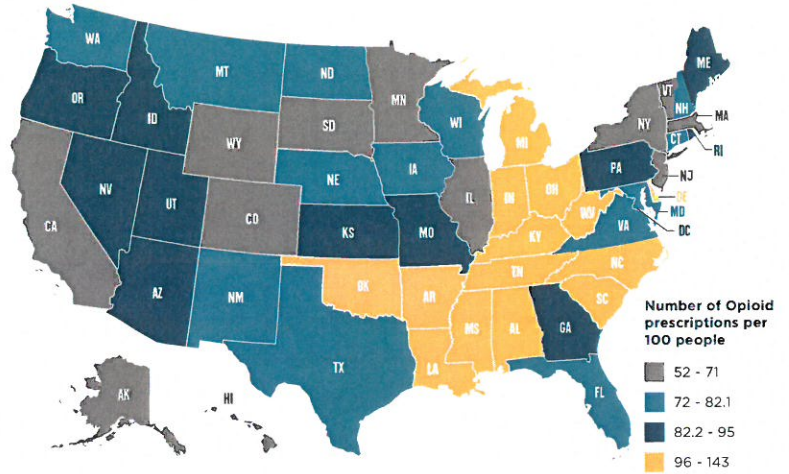


According to the New Hampshire Department of Health and Human Services, **one person dies each day** from overdose.

LIKE BIG TOBACCO, BIG PHARMA HAS ABSOLUTELY HAMMERED NEW HAMPSHIRE COMMUNITIES WITH A CONSTANT FLOOD OF OPIATES.

OPIOID PRESCRIBING

- We are experiencing the consequences of 25+ years of prescribing more opioids at higher doses.
- Between 1991 and 2016 sales of these prescription drugs have **QUADRUPLED**.
- During 2015, an estimated **12,462,000 PERSONS**  aged 12 years or older in the U.S. misused prescription pain relievers in the past year.



(SOURCE: IMS, National Prescription Audit (NPA), 2012)

SOME STATES HAVE MORE OPIOID PRESCRIPTIONS PER PERSON THAN OTHERS BUT EVEN THE LOW AREAS HAVE OVER 50 PRESCRIPTIONS PER 100 PEOPLE.

DRUG ADDICTION AND OVERDOSE DEATHS

Prescription drug addicts are normal people. They're our neighbors, our children, our parents, our friends. The harsh reality is that anyone who takes prescription opioids can become addicted to them. **In fact, as many as one in four patients receiving long-term opioid therapy in a primary care setting struggles with opioid addiction as a result.** And once addicted, it can be hard to stop.

- Between 1999-2013 opioids claimed 175,000 lives and the sales of these prescription drugs have quadrupled.
- This pales in comparison to the **42,249 DEATHS IN 2016 ALONE.**  This is 5x higher than in 1999 - and it continues to grow - destroying lives, families, and communities. (CDC, Prescription Drug Overdose data)
- Each day **MORE THAN 1,000** people are treated in emergency departments for misuse of opioids.

A HIGH COST TO OUR COMMUNITIES

In the United States, prescription opioid abuse costs are about \$55.7 billion annually. (CDC, Prescription Drug Overdose data)



91% of New Hampshire's overdose deaths are opioid related.

KEY ATTORNEYS



Paul Farrell | Plaintiffs' Co-Lead Counsel - National Prescription Opiate Litigation MDL

Paul Farrell, Jr. is a trial lawyer and partner at Greene, Ketchum, Farrell, Bailey & Tweel LLP. Mr. Farrell filed the first cases in the country on behalf of public entities against the wholesale distributors of prescription opiates in southern West Virginia and is focusing his efforts to abate the nationwide opioid epidemic. Mr. Farrell is recognized as a premier trial lawyer in the field of medical malpractice and appellate advocacy, making some thirty appearances before the West Virginia Supreme Court.

Mr. Farrell filed some of the first transvaginal mesh (TVM) cases in the country and served as liaison counsel on the executive committee for the 7 Pelvic Repair System Products Liability MDLs in Charleston, West Virginia. These MDLs consolidated 80,000 cases and resulted in several multi-million dollar jury verdicts. Mr. Farrell served as trial counsel for the TVM litigation, successfully trying two bellwether cases to verdicts in excess of \$20 million.



Peter Mougey | Plaintiffs' Executive Committee - National Prescription Opiate Litigation MDL

Peter J. Mougey is a partner and head of the Securities & Business Litigation Department with Levin Papantonio. Mr. Mougey has 20 years of experience successfully litigating complex, high-profile cases including financial fraud, corporate misconduct, business torts, and securities fraud. He has represented hundreds of governmental entities, including cities, counties, pension plans, public utilities, and hospitals in addition to more than 2,500 individual victims of financial fraud.

Mr. Mougey has both an undergraduate degree in finance and an MBA with extensive experience in financial and mathematical modeling and quantitative analyses in support of complex litigation. He has taken dozens of cases to verdict in various forums. In addition, Mr. Mougey has served as counsel in a number of both class and derivative actions. He is routinely asked to lecture on all aspects of his complex litigation practice and regularly quoted in the national press. In addition, Mr. Mougey consults on various cases for governmental agencies and regulators.



Mike Fuller | Plaintiffs' Executive Committee - National Prescription Opiate Litigation MDL

Mike Fuller, of McHugh Fuller, has extensive experience in nursing home, medical malpractice and criminal prosecutions and trials. He has worked with a top national law firm and the Hillsborough County State Attorney's Office in Florida, and he has litigated and tried numerous cases to verdict in jurisdictions nationwide. Part of his educational process was spent working in the White House as an intern involved with Presidential Correspondence, providing a wealth of experience with citizens, legislators, and diplomats across the United States. Mr. Fuller currently serves on the Plaintiff's Executive Committee in the National Prescription Opiate Litigation MDL.



Roland Tellis | Plaintiffs' Executive Committee - National Prescription Opiate Litigation MDL

Roland Tellis' practice at Baron & Budd focuses on complex, high-profile litigation, including consumer class actions, financial fraud, business torts, corporate misconduct, automobile defect, food labeling, false advertising, securities fraud, and environmental contamination.

He holds leadership roles in numerous multi-state, complex class action cases, including *Bias v. Wells Fargo Bank*, a certified nationwide RICO class action involving millions of mortgage loans that settled for more than \$50 million; *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, a multi-state class action in the process of settling with values and fines totaling in the billions of dollars, involving hundreds of thousands of vehicles equipped with "defeat devices" designed to evade emissions laws; and *In re: Takata Airbag Products Liability Litigation*, which has received preliminary approval for a settlement valued at \$553 million.



Troy Rafferty | Plaintiffs' Co-Liaison Counsel - National Prescription Opiate Litigation MDL

Troy Rafferty is a shareholder at Levin Papantonio. He litigates mass tort, pharmaceutical, and major personal injury cases throughout the country.

Mr. Rafferty has been appointed to handle some of the nation's largest pharmaceutical and mass tort cases. He has been appointed to serve on many Plaintiffs' Steering Committees including the national Vioxx Litigation which resulted in a \$4.7 billion settlement and the national Zyprexa Litigation which resulted in a \$700 million settlement. Mr. Rafferty was also one of the leading attorneys in the national Rezulin Litigation. He and his partner obtained a \$40 million judgement for a woman who took this diabetes drug. Mr. Rafferty has successfully tried numerous complex pharmaceutical cases throughout the country.



Thomas Merrigan

Hon. Thomas T. Merrigan (Ret.) is a partner in Sweeney Merrigan Law, LLP. In addition to his strong background as a litigator, he also brings twelve years of experience as retired First Justice in the Orange District Court, serving from 1990 to 2002, and as an Associate Justice of the Appellate Division of the District Court from 1994 to 2002.

As a recipient of the Warren Burger Award, "Trial Court Judge of the Year," Attorney Merrigan has a rare skill-set when it comes to knowing his way around the court room. During his time on the bench, he received numerous awards and honors for his innovations in court and community collaboration, public trust and confidence in the judiciary and work in substance abuse.

In addition to his leadership as a judge, Attorney Thomas T. Merrigan is also recognized by the legal community as a dynamic litigator, headlining Massachusetts Lawyer's Weekly as one of the States "Most Powerful" attorneys.



Richard Sandman

Richard M. Sandman is co-owner and Managing Partner of Rodman, Rodman & Sandman, P.C., and has been a practicing attorney for 30 years. Mr. Sandman is nationally recognized in the areas of asbestos litigation, toxic torts, water contamination, and complex product liability claims. He has been involved extensively in tobacco-related litigation, and worked with other personal injury attorneys throughout the country to achieve the national multibillion-dollar settlement with the tobacco industry. He has represented thousands of asbestos claimants nationwide in state and federal courts, earning millions of dollars for his clients. Mr. Sandman has played significant roles in litigations involving defective prescription drugs and other products. Recently, he represented eighty Massachusetts municipalities whose public water supplies had been contaminated by the gasoline additive methyl tertiary butyl ether (MTBE). After six years of litigation, the case settled, resulting in over \$83 million dollars to his clients.



James Bianco

Attorney James J. Bianco, Jr. founded Bianco Professional Association in 1981. Over the past 30 years, Jim has established himself as one of the premier attorneys and government relations advisors in the state of New Hampshire. Jim's expertise includes legislative, administrative, and regulatory matters. Throughout his career, he has served the interests of individuals, small businesses, and large corporations throughout New Hampshire, as well as national companies located throughout the United States. His practice includes the representation of industries such as healthcare, education, real estate, housing, banking, energy, and recreation as they relate to matters pertaining to regulatory issues, legislative processes, administrative law, and business strategies. Jim regularly appears on behalf of clients before the New Hampshire legislature and various state agencies, implementing the same.



Thomas Colantuono

Attorney Thomas Colantuono joined Bianco Professional Association after having served as the United States Attorney for the District of New Hampshire from December 2001 to March 2009. Tom brings a wealth of experience in law, politics, and government to the firm.

With his extensive experience in law and government at both the state and federal levels, Tom is available to assist individuals, businesses, and institutional clients in devising strategic solutions to problems that involve the public sector. He is also available to represent clients before New Hampshire's many regulatory boards and commissions, as well as the legislature and the Executive Council.



Peter Merrigan

Peter M. Merrigan is a partner at Sweeney Merrigan Law, LLP. Named a 2015 and 2016 "Top 40 Under 40 Trial Attorney" and a 2015 "Rising Star" according to Super Lawyers, Mr. Merrigan has a reputation for producing exceptional results on behalf of his clients by way of negotiation, mediation, arbitration and trial. He is admitted to practice in the Commonwealth of Massachusetts and focuses on Motor Vehicle Accidents, Personal Injury, Maritime accidents, Wrongful Death, Defective Products, Slip or Trip and Fall incidents, Insurance Disputes, and General Liability accidents.



Tucker Merrigan

J. Tucker Merrigan is a partner at Sweeney Merrigan Law, LLP. Mr. Merrigan is admitted to practice law in the Commonwealth of Massachusetts. His practice concentrates on cases involving personal injury, defective medical devices, dangerous drugs, wrongful death, premises liability, products liability, medical malpractice, and insurance law.

Mr. Merrigan is currently a member of the American Association for Justice, Massachusetts Academy of Trial Attorneys, the Boston Bar Association, and Massachusetts Bar Association. In both 2015 and 2016, J. Tucker Merrigan was named a Top 40 Under 40 Trial Attorney by National Trial Lawyers. He volunteers as a Big-Brother in the Big-Brother Big-Sister foundation of the greater Boston area.



Amy Quezon

Amy Quezon is an elite trial attorney who has tried more than 100 jury trials and received jury verdicts totaling more than \$100 million. Her diverse practice is devoted to plaintiff advocacy, with a specific focus on nursing home abuse and neglect litigation.

As a former prosecutor with the Hillsborough County State Attorney's Office, Ms. Quezon has significant experience representing governmental entities. Ms. Quezon is a leader in the opioid litigation, serving as counsel on some of the earliest filed cases on behalf of governmental entities, and has spent the last year working with experts in the field to develop trial ready evidence and testimony. She is counsel of record for hundreds of governmental entities in their opioid litigation and is a frequent speaker on opioids litigation nationwide.

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NHOLA

New Hampshire Opioid Litigation Attorneys



SWEENEY MERRIGAN
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KP LAW
The Leader in Public Sector Law

Your New Hampshire Legal Team Fighting the National Opioid Epidemic

New Hampshire Opioid Litigation Attorneys (NHOLA) is a consortium of local and national law firms filing suit against the world's largest pharmaceutical manufacturers and distributors to hold them accountable for flooding our communities with opioids, resulting in massive economic damages to New Hampshire cities and towns.

The NHOLA litigation, being brought on behalf of the taxpayers of New Hampshire municipalities, is aimed at recovering monetary damages from the pharmaceutical manufacturers and distributors for their role in the devastating opioid epidemic. The damages sought on behalf of individual cities and towns are for past costs including law enforcement, needle exchanges, Narcan, EMS, treatment services, etc., as well as future mitigation/abatement damages for the foreseeable expenditures of taxpayer dollars toward treatment, education, and prevention.

Some additional information about this litigation:

- **This is a Mass Tort litigation, *not* a Class Action.** A class action suit requires all participants to have essentially the same injuries. Here, the damages from one municipality to another are very different and thus this is not a class action. We are filing suit on behalf of individual municipalities; these lawsuits will be consolidated for pretrial and discovery purposes.
- **We are not suing individual doctors or pharmacies.** NHOLA believes the most effective approach to this litigation is to focus on the primary sources of this epidemic.
- **Individual municipalities will not have to bear the cost of the litigation.** The attorneys working on your case will *only* get paid from the verdict or settlement. The attorneys will front all costs and will *only* be reimbursed if successful.

Working with the NHOLA team benefits local New Hampshire municipalities because they will be represented by our consortium of lawyers that includes multiple national law firms as well as three MA firms with extensive mass tort litigation experience and a deep understanding of municipal law: [Sweeney Merrigan Law](#), [Rodman, Rodman & Sandman](#), and [KP Law](#), together with NH local counsel: [Bianco Professional Association](#).



Our consortium is the national leader in this litigation, with more opioid cases on file than any competing firm or group in the country.

To learn more about how your municipality can get involved, contact us at www.biancopa.com or (603) 225-7170.



NHOLA

New Hampshire Opioid Litigation Attorneys



SWEENEY MERRIGAN
LAW



KP LAW
The Leader in Public Sector Law

Frequently Asked Questions

1. Is this litigation a Class Action or a Mass Tort?

This is a mass tort litigation, not a class action. *A class action suit requires all participants to have essentially the same injuries. Here, the damages from one municipality to another are very different and thus this is not a class action.* We are filing suit on behalf of individual municipalities. Each individual municipality will have its own right to either accept or reject its specific settlement offer. Should a particular municipality decide to reject all offers and go to trial, these cases will be tried *in New Hampshire* by our team of local and national attorneys.

2. Isn't the Attorney General already pursuing the defendants?

The AG has brought an action to recover damages on behalf of the State. *However, even if the Attorney General recovers funds on behalf of the State, there is no guarantee that any funds recovered in that action would directly benefit municipalities. Pursuing individual lawsuits on behalf of individual cities and towns will ensure that recovery money will go directly to the municipalities impacted by this crisis.* We feel that individual lawsuits by the municipalities will expand the scope of recovery throughout the State and better the municipalities as a whole. Moreover, this will not interfere in any way with the Attorney General's efforts to seek recovery on behalf of the State.

3. Where will these cases be filed?

Cases are being filed all over the country. In New Hampshire, we believe that cases should be filed in Federal Court and then consolidated into a Multidistrict Litigation (MDL) with other cases throughout the State and the country to address pretrial and discovery issues. After these issues are resolved, the cases will likely be settled or sent back to New Hampshire for trial. We believe this is the most efficient, least burdensome, and most cost effective way to pursue these cases against some of world's most profitable companies. While every municipality has the right to choose how its case is pursued, most municipalities have expressed a greater comfort level participating in the national litigation effort.

4. We don't have a lot of resources to commit to this. How much time is required?

Because this litigation is centralized in a MDL in Ohio, most of the discovery will focus on the defendants while the cases are there. A few cases will be worked up and tried before the others ("bellwether trials"); these cases will serve as a barometer for the other cases in the MDL and may lead to settlement discussions. If settlement offers are obtained, each municipality will decide whether to accept or reject its specific offer. If the offer is rejected, the case will return to New Hampshire for trial. *We have a comprehensive legal team with extensive municipal and trial experience to manage, oversee and facilitate any required involvement from the municipality, and there should be ample time to plan and manage any such participation by each municipality well in advance.*

5. How do the legal expenses work?

Because our consortium has more clients throughout the country than any other group of attorneys, we can provide great economies of scale. The costs involved in this litigation are likely to be substantial. Instead of those costs being shouldered by a small handful of clients, our costs (assuming there is a successful recovery) will be spread among our many clients throughout the country, resulting in much lower costs being deducted from the awards to the local municipalities. No up-front payment of costs will be required from the municipalities.

**To learn more about how your municipality can get involved, contact us at
www.biancopa.com or (603) 225-7170.**



NHOLA

New Hampshire Opioid Litigation Attorneys



Our National Opioid Litigation Consortium

In partnering locally with the New Hampshire Opioid Litigation Attorneys (NHOLA), your municipality will be supported by a national powerhouse, including many of the top lawyers in New Hampshire and the country. We are initiating litigation against some of the largest and wealthiest pharmaceutical companies, and our consortium will bring to bear the financial and human resources necessary to be successful.

As the national leader in this litigation, our consortium of lawyers have more opioid cases on file than any competing firm or group in the country. For that reason, our consortium has been appointed to many key leadership positions spearheading the national litigation on behalf of hundreds of cities and towns across the country, as part of the MDL consolidation.

This specialized legal team has had the opportunity to retain some of the country's preeminent experts including former DEA agents who were recently featured on the program 60 Minutes. Those former agents have agreed to testify exclusively for our group. We have also retained experts in the fields of addiction recovery, urban and rural blight, the economics of addiction, and others.

The NHOLA consortium extends beyond Bianco Professional Association, together with our MA partners, Sweeney Merrigan Law, Rodman, Rodman & Sandman, and KP Law, to include six other national law firms and several leaders of the national Plaintiff Steering Committee:

Paul T. Farrell, Jr., Greene Ketchum Farrell Bailey & Twell, LLP, Plaintiff Co-Lead Counsel

Troy Rafferty, Levin Papantonio, P.A., Plaintiff Co-Liaison Counsel

Michael J. Fuller, McHugh Fuller Law Group, Plaintiff Executive Committee

Peter Mougey, Levin Papantonio, P.A., Plaintiff Executive Committee

Roland Tellis, Baron & Budd, Plaintiff Executive Committee



To learn more about how your municipality can get involved, contact us at www.biancopa.com or (603) 225-7170.

In N.H. Opioid Lawsuit, Echoes of Past Battles Against Tobacco, Other Industries

By CASEY MCDERMOTT · AUG 11, 2017
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Purdue faced a similar lawsuit in 2007 over its marketing practices for OxyContin, the same drug at the center of many lawsuits it faces today.

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New Hampshire's Attorney General made waves earlier this week when it brought its first lawsuit against a pharmaceutical giant, Purdue, over its

alleged role in the state's opioid crisis. But this is just the latest in a decades-long trend of states taking big industries to court.

Listen

Listening...

4:11

Over the last two years, large opioid companies like Purdue have faced lawsuits from all corners of the country: [New Hampshire](#), [Ohio](#), [Missouri](#) and [Mississippi](#); communities like [Everett, Wash.](#), and [Waterbury, Conn.](#); and dozens of other [states](#), [cities](#) and [counties](#).

"They're all getting at basically the same thing: You knew this was an inappropriate use of these drugs, yet you marketed it aggressively for that use," says David Logan, a law professor at Roger Williams University who studies this kind of litigation.

Logan and other legal experts say it's a playbook that's been tried lots of times before — with varying levels of success. City and county [lawsuits brought against the gun industry in the 1990s and early 2000s](#) didn't go far, for example, and didn't do much of anything in the long term to curb gun deaths.

An onslaught of state lawsuits against tobacco companies, on the other hand, led to a landmark 1998 "[master settlement](#)" that forced those companies to [change their marketing practices](#) and [pay millions of dollars to states](#) for tobacco prevention.

But in New Hampshire and [lots of other states](#), much of that tobacco money is getting diverted to other uses.

"There's a lot of people who think the global settlement in the tobacco industry litigation wasn't nearly as effective in combating aspects of tobacco addiction as it should have been," Logan says.

So what's the desired outcome in this wave of opioid lawsuits? For one, many of the states and cities want the drug companies to stop the marketing practices that, they say, fueled the addiction crisis.

Even if states were successful in pursuing those claims, University of Kentucky law professor Richard Ausness says that only goes so far in actually addressing the underlying problem.

"If you say your theory is you lied about the drugs, then the remedy is: force them to quit lying," Ausness says. "But that doesn't immediately solve the addiction problem. It's still going to be out there."

In 2014, Ausness wrote [a law review article evaluating the effectiveness of lawsuits against the opioid industry as a tool for fighting prescription drug abuse](#) — his takeaway, at that time, was that lawsuits alone were unlikely to turn the tide.

[New Hampshire's initial complaint against Purdue](#) doesn't delve into many specifics about what kind of other payout it wants from the company. It asks for \$10,000 for each violation of its consumer protection act. But it also wants the company to "abate the public nuisance its conduct has created."

"They're simply saying, as a result of the drug company's behavior, we the government are now stuck with huge social cost, and it's not our fault that this happened," Ausness says.

Depending on how these lawsuits play out, states like New Hampshire could try to recoup costs for emergency services, medical care and other places where taxpayer money has been drained because of the opioid crisis — [all costs it alludes to in its legal complaint](#) — though all of that would, again, have to be worked out in court.

But Tim Lytton, who studies health and safety regulations at Georgia State University School of Law, says a victory in the courtroom isn't the only way to measure the effectiveness of these lawsuits. For one, Lytton says, every lawsuit tells a story.

And in the ones against cigarette and gun companies, or even in the child sex abuse cases against the Catholic Church, the stories told within lawsuits helped to reframe public narratives around broader societal issues.

In some of those examples, Lytton said lawsuits also helped to put public pressure on larger institutions to take more responsibility for problems that were previously blamed on individuals.

"In the case of opioids, what I think that would mean is: Many people think of opioid abuse as a problem essentially of addicts," Lytton says. "But the lawsuits raise the idea that really opioid abuse is the responsibility of the industry, because of the industry's marketing and promotional and sales practices."

Lytton said these lawsuits can have other effects, too, even before they get to trial. They can also force companies to turn over internal documents, like emails or marketing plans, that would shed light on whether or not they knew their products were harmful.

And that's part of where states and cities might be at an advantage when it comes to taking on the opioid companies from a lot of different angles, in a lot of separate cases, instead of attacking the opioid companies as a unified front.

"When somebody finds something that Purdue wrote or said in 1998, and they find it in a lawsuit in New Hampshire, the chances are it's going to be in

the hands of the lawyers in Ohio and other states within nanoseconds of it being discovered,” Logan, from Roger Williams, said.

It’s worth noting, however, that this isn’t the first time Purdue has faced lawsuits of this kind.

Almost exactly 10 years ago, in fact, [Purdue and several of its top executives pled guilty in a federal lawsuit over its marketing practices around OxyContin](#), the same opioid at the center of many of the lawsuits it faces today. At the time, the company faced allegations that it [promoted OxyContin as a safer, less addictive alternative](#) to other painkillers.

Purdue, for its part, is denying any wrongdoing alleged in the current New Hampshire lawsuit. The company, in a statement provided earlier this week, pointed to its support for abuse-deterrent technology, prescription drug monitoring programs and access to the opioid reversal drug, Naloxone (or Narcan).

“While we vigorously deny the allegations, we share New Hampshire officials’ concerns about the opioid crisis and we are committed to working collaboratively to find solutions,” the company said.

Seeking Payback for Opioid Costs, Manchester Files Suit Against Drug Makers

By CASEY MCDERMOTT · SEP 5, 2017

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Last month, New Hampshire became the latest state to go after Purdue Pharma, alleging the company's marketing practices were partially to blame for the state's opioid epidemic. Now, [the city of Manchester is also suing Purdue](#) — as well as other opioid manufacturers and distributors — seeking payback for the cost it's incurred because of the drug crisis.

The city's 234-page complaint, filed Friday in Hillsborough County Court North, minces no words. It begins: "This case is about one thing: Corporate greed. Defendants put their desire for profits above the health and well-being of the City of Manchester, its residents and consumers, all at the cost of the plaintiff."

Those defendants in this case include Purdue Pharma as well as several other opioid manufacturers and distributors: Teva Pharmaceuticals, Johnson & Johnson, Cephalon, Allergan and Endo Pharmaceuticals, among others.

In the lawsuit, attorneys representing Manchester claim the city was forced to spend "millions of dollars" on healthcare, public safety and lost productivity related to opioid addiction. The city doesn't specify the amount it's seeking in damages but does ask for "compensatory damages in an amount sufficient to fairly and completely compensate" Manchester for the damage it's incurred because of the drug crisis.

The lawsuit was filed with the help of a New York-based firm, Napoli Shkolnik, that's handled similar cases on behalf of towns and counties in New York, Ohio and elsewhere.

Nashua is examining whether to pursue its own opioid-related lawsuit, and a [Napoli Shkolnik attorney told NHPR last month](#) that the firm is also talking with other New Hampshire communities about possible litigation.

TAGS:

Nashua Becomes Second N.H. City to Take Opioid Companies to Court

By CASEY MCDERMOTT · DEC 22, 2017

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Nashua is now the second New Hampshire city to sue pharmaceutical giants over their alleged role fueling the community's opioid crisis. The [city's complaint](#) is almost identical to [one filed on behalf of the city of Manchester in September](#).

Both were filed with the help of the same New York-based law firm, Napoli Shkolnik, and both go after the same set of drug companies. Both also claim those companies' ignored the risks their products posed to patients and engaged in misleading marketing practices that, ultimately, gave rise to the opioid problems the cities are facing today.

"As a direct and foreseeable consequence of Defendants' wrongful conduct, [Nashua] has been required to spend millions of dollars each year in its efforts to combat the public nuisance created by Defendants' deceptive marketing campaign," the complaint states. "Plaintiff has incurred and

continues to incur costs related to opioid addiction and abuse, including, but not limited to, health care costs, criminal justice and victimization costs, social costs, and lost productivity costs. Defendants' misrepresentations regarding the safety and efficacy of long-term opioid use proximately caused injury to Plaintiff and its residents."

Joseph Ciaccio, an attorney with Napoli Shkolnik who is involved in both cases, said the goal of the Nashua lawsuit is also the same as Manchester's: to compensate the city both for the damage already done by opioids as well as for future cleanup it will need to keep doing in the years to come.

"As much as it's about what they've already spent, a lot of it has to do also with what the city's going to need to try to slow and eventually stop what's happening," Ciaccio said.

The city of Manchester's lawsuit, meanwhile, has been transferred to a court in Ohio for review alongside more than 60 other similar cases filed by communities across the country. Ciaccio said he expects Nashua's suit will eventually get consolidated with those other cases, as well.

Ciaccio said his firm is also in talks with other New Hampshire communities about filing their own lawsuits, but those conversations are still preliminary.

Cities of Concord, Dover file lawsuit against drugmakers for their role in opioid epidemic

By CAITLIN ANDREWS

Thursday, April 26, 2018

The cities of Concord and Dover filed a lawsuit Tuesday against multiple drug manufacturers and distributors who they say fueled the opioid crisis in the state through “false marketing.”

“Defendants’ unfair and/or deceptive acts or practices in violation of the New Hampshire Consumer Protect Act offend New Hampshire’s public policy, are immoral, unethical, oppressive and unscrupulous, and they caused substantial injury to Concord and Dover,” the complaint reads. “Defendants’ conduct, as described herein, meets and exceeds a level of rascality that would raise an eyebrow of someone inured to the rough and tumble world of commerce.”

In doing so, Concord and Dover join at least three other New Hampshire cities – Nashua, Manchester and Keene – that have filed lawsuits against Purdue Pharma, as well as other companies such as Teva Pharmaceutical Industries and Endo International for their role in fueling the drug epidemic.

City officials and recovery providers agreed that the lawsuit is just one piece of the puzzle needed to combat the opioid epidemic.

“I don’t think there’s any one magic bullet,” said Concord Mayor Jim Bouley. “It’s all sorts of things; we need to continue to work with public safety, Riverbend (Community Mental Health) and our partners in the community to help solve it. This may be one of those pieces.”

The lawsuit accuses pharmaceutical companies of engaging in fraudulent marketing and of failing to report suspicious sales of prescription opioids to increase sales, leading to otherwise avoidable deaths.

Like other municipalities before them, Concord and Dover are claiming specific injury due to the fact that the opioids manufactured by Purdue and other companies are sold in their cities. They claim the companies misled the public on the risks of addiction, overdose and death related to opioid use and that the companies saw these risks and did nothing to stop them.

“(The) defendants’ conduct was, at the very least, a substantial factor creating the public nuisance. Without defendants’ action, opioid use would not have become so widespread, and the opioid epidemic that now exists in Concord and Dover would have been averted or much less severe,” the complaint reads.

Bouley said the city was approached by outside legal counsel looking to have more municipalities join their suit. The decision to join, however, was made not by the city council, but by the city’s solicitor’s office, he said. Bouley said he did not know whether the cost of litigating the suit was factored into the upcoming budget process.

City Manager Tom Aspell declined to comment for this article, citing the pending suit, and referred all questions to the city solicitor’s office. Kennedy was unable to be reached for comment because he was on vacation, according to a representative of the solicitor’s office.

Aelish Baig of Robbins, Geller, Rudman & Dowd LLP, the law firm handling the suit, said Concord and Dover are just two municipalities it’s representing across the country in the federal multidistrict case against big pharmaceutical companies. The case will at first be transferred to Cleveland, where Baig said 400 other cases of a similar nature are pending. Certain legal issues will be resolved, and then the case will return to New Hampshire for the trial portion, she said.

Baig said Dover and Concord are her firm’s only New Hampshire clients at this time.

Public health officials have called the opioid epidemic the worst drug crisis in American history, leading to more than 200,000 deaths in the United States between 1999 and 2016 from overdoses directly related to prescription opioids.

More than 480 people overdosed and died in New Hampshire alone in 2017. According to data from Concord’s police and fire departments, 14 of those opioid-related deaths were in Concord, one fewer than the previous year.

Approximately 483 drug offenses and 273 drug arrests occurred in Concord last year, an 18 percent and 14 percent decrease, respectively, from 2016, according to the data.

Peter Evers, CEO of Concord’s Riverbend Community Mental Health, said there’s much more work to be done before opioids loosen their grip. But he agreed with the premise of the suit, saying 40 percent of people addicted to heroin start with overprescription on opioids.

“The more different groups decide to stand up to big pharma, the better off we’ll be,” he said. “These efforts are pretty David and Goliath.”

(Caitlin Andrews can be reached at 369-3309, candrews@cmonitor.com or on Twitter at @ActualCAndrews.)