

Philly Becomes Latest To Sue Drugmakers For Opioid Crisis

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Law360, Philadelphia (January 17, 2018, 3:51 PM EST) -- The city of Philadelphia became the latest municipality to attempt to hold drug manufacturers responsible for the nation's growing opioid crisis Wednesday, filing a state court lawsuit accusing [Allergan](#), Purdue, Endo, Janssen and Teva of deceptive marketing.

In a 156-page complaint, the city accused the companies of creating the public health crisis through a decadeslong practice of overstating the safety of the drugs, prioritizing their sales figures over the interests of patients.

While Philadelphia is not the first large city or Pennsylvania municipality to take aim at the drug manufacturers, city solicitor Sozi Pedro Tulante emphasized at a press conference that the city had paid a disproportionate price as a result of the crisis.

According to the complaint, in 2015, Philadelphia ranked first among all Pennsylvania counties for per-capita drug overdose deaths, and that same year, the city's rate of 47 overdose deaths per 100,000 residents was four times higher than New York's tally and three times higher than Chicago's. The latter city was one of the first to take on the drugmakers, with a 2014 state court lawsuit that was later removed to federal court.

"The great distinction between us and the other cities is that we've been hardest hit," Tulante said.

The city is looking to stop the drugmakers from continuing their alleged deceptive marketing practices.

"We need them to stop claiming that these drugs are necessary for long-term chronic illnesses," Tulante said, adding that the city is considering filing for an immediate injunction on the subject.

It also seeks to force the drugmakers to pay for the costs of care for city residents suffering from opioid addiction as well as to recover the city's costs for responding to the epidemic.

According to the complaint, these costs include funding for first responders who treat overdoses, public health programs and the city's criminal justice and prison systems. The city also alleges that its finances have been harmed by public employees who have become addicted to the drugs.

Tulante did not provide an estimate of the actual costs incurred by the city Wednesday, simply putting the figure in the millions.

The city's suit raises claims under Pennsylvania's consumer protection statute and Philadelphia's False Claims Act and for public nuisance violations.

Tulante said that these specific claims distinguish the city's suit from other actions filed by Pennsylvania municipalities — which include Delaware County, Luzerne County, and the adjacent suburban township of Bensalem — and reflect the city's unique circumstances, including its large workforce that has been harmed by the drugs.

“We really want to talk about the local problems because the relief that we're seeking is specific to what's happening here in Philadelphia,” Tulante said.

Philadelphia is being represented by five local law firms on a contingency basis. Tulante did not detail the arrangements, but did cite the one-third standard for contingency awards as common practice for the city.

The drugmakers swiftly responded to the lawsuits.

Endo declined to comment on the specifics of the suit, but a spokeswoman said the company denied the allegations and intended to vigorously defend the lawsuit.

“We are committed to working collaboratively to develop and implement a comprehensive solution to the opioid crisis, which is a complex problem with several causes that are difficult to disentangle,” the company said in a statement. “Toward that goal, Endo has taken meaningful action during the past year by voluntarily ceasing opioid promotion and eliminating its entire product salesforce.”

An Allergan spokesman, meanwhile, noted that it had reduced its sales of opioids, having

divested its Activis generics business to Teva in 2016. It added that its two branded opioid products — Norco and Kadian — accounted for less than 0.08 percent of all opioid products prescribed in 2016 in the U.S.

“These products came to Allergan through legacy acquisitions and have not been promoted since 2012, in the case of Kadian, and since 2003, in the case of Norco,” the company said in a statement. “Allergan has a history of supporting — and continues to support — the safe, responsible use of prescription medications. This includes opioid medications, which when sold, prescribed and used responsibly, play an appropriate role in pain relief for millions of Americans.”

A Teva spokesman highlighted the company’s work with communities and health care providers on appropriate prescriptions, its compliance with federal and state laws, and its focus on developing non-opioid treatments for pain.

“Teva is committed to the appropriate use of opioid medicines, and we recognize the critical public health issues impacting communities across the U.S. as a result of illegal drug use as well as the misuse and abuse of opioids that are available legally by prescription,” the company said.

A Janssen spokeswoman emphasized that the company’s opioid pain medicines had some of the lowest rates of abuses in the category according to independent surveillance data.

“We believe the allegations in the lawsuits against our company are both legally and factually unfounded,” said Jessica Castles-Smith. “Janssen has acted in the best interests of patients and physicians with regard to its opioid pain medicines, which are FDA-approved and carry FDA-mandated warnings about possible risks on every product label.”

A representative for Purdue did not immediately respond to a request for comment.

The city is represented by attorneys from its law department, as well David Kairys of [Temple University Law School](#) and attorneys from [Berger & Montague PC](#), [Dilworth Paxson LLP](#), [Sheller PC](#), [Sacks Weston Diamond LLC](#), Young Ricchiuti and Caldwell & Heller LLC.

Counsel information for the defendants was not immediately available Wednesday.

The case is City of Philadelphia v. Allergan PLC et al., case number 1801002718, in the Philadelphia County Court of Common Pleas.

--Editing by Jack Karp.

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