Forbes: The Opioid Litigation: Settlements, Winners, and Losers

Forbes recently published Co-Founder and Managing Partner Harry Nelson's article concerning the outlook of the National Prescription Opioid Litigation. The litigation was set in motion with March 2019's $275 Million Settlement to the State of Oklahoma in its lawsuit against Purdue Pharma.

From the article:

> As the fall approaches, anticipation is growing for a breakthrough in the National Prescription Opiate Litigation, the 1,800 combined cases before Judge Dan Polster. The cases accuse Purdue Pharma and other drug manufacturers, along with drug distributors like McKesson, AmerisourceBergen, and Cardinal Health and national pharmacies of responsibility for opioid-related harm.
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> With the first trial in this behemoth case just months away (October 2019), the expectation has been that the opioid litigation will follow the patterns of previous high-profile cases like Big Tobacco or the NFL Concussion cases, reaching a comprehensive settlement before trial. Though Judge Polster has kept the underlying facts out of public view by allowing the defendants to file materials under seal, the parties have made noteworthy efforts to publicize an anticipated settlement framework. The proposal would pull nearly 25,000 cities and counties nationwide (of whom roughly fewer than 7% are currently parties to the litigation) into a negotiation class, betting that few would opt out based on litigation costs. The theory is that this would give the defendants some security by foreclosing the possibility of future suits by municipalities not yet participating in the proceedings. The differential share of opioid harms at different times and places around the country could be allocated with an interactive map establishing each local government's expected share of any proposed settlement.
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> Despite the attention the proposal has garnered, any anticipation of a Big Tobacco or NFL concussion-style settlement in the opioid cases misses a key difference in the cases. Both cases involved a single class of plaintiffs – 46 state attorneys general in the Tobacco case and NFL players in the concussion case. That made for relatively simple settlements. By contrast, the opioid litigation involves multiple, distinct groups of plaintiffs competing for settlement dollars for different kinds of harm: not just states, but local governments, Native American tribes, hospitals, unions, and potentially many others. The cases allege that governments and other plaintiffs were harmed by the distinct costs of law enforcement, public health, emergency response, and medical care for overdose victims and people struggling with addiction.

Read the full article