

JOHNSON AND JOHNSON LITIGATES LAWSUITS FOR FRAUDULENT MARKETING OF OPIOIDS

By: MARTIN J. ROTHSCHILD, J.D.

More than 2,000 lawsuits have been brought by states and cities against Johnson and Johnson claiming the company contributed to the opioid crisis by overselling the benefits of its painkillers. Suits have been brought for aggressive marketing of J&J's opioid products Nucynta and Duragesic, and for "fraudulent insurance acts" by misrepresenting the drugs' risks. Nucynta has been marketed as *"an opioid agonist indicated for the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate."*¹ Duragesic has been described as a *"fentanyl transdermal system for the management of pain in opioid tolerant patients severe enough to require daily around-the-clock, long-term opioid treatment for which alternative treatment options are inadequate."*²

New York state filed suit in September 2020 against J&J accusing it of distributing marketing materials which falsely claim that independent advocacy groups have dismissed opioid addiction as a myth. Additionally, the suit alleges that the risks of opioid painkillers were downplayed to doctors and elderly patients. The company and its affiliate Janssen Pharmaceuticals are accused of ignoring the risks of side effects like falls and neuropsychiatric conditions

when targeting elderly patients for opioid treatment. Nonetheless, J&J and Janssen have issued a statement saying that their marketing and promotion of opioids has been *"appropriate and responsible."* They claim to have worked with regulators to provide *"appropriate information about the risks and benefits"* of the drugs.³



In 2019, a 17 billion dollar lawsuit filed by Oklahoma's Attorney General against J&J for alleged misleading marketing and promotion of Duragesic and Nucynta went to trial. This was the first of the opioid marketing abuse lawsuits brought by states, counties, and municipalities nationwide to go to trial. Several of these cases have settled. The judge in the non-jury trial held that the company was



guilty of creating a "*public nuisance*" through its promotion and sales tactics and ordered it to pay \$572 million dollars to the State. This award was far lower than the multi-billion dollar verdict anticipated. In a blow to the Attorney General's presentation, the judge ruled that he had not proven the time and costs involved in funding state addiction treatment and prevention programs beyond one year, although recovery had been sought covering 30 years. Adding insult to injury, the judge later determined he made a math error, and reduced the award to \$465 million. Nonetheless, J&J plans to appeal.⁴

Texas filed a Medicaid fraud lawsuit against the company one week after the original verdict in Oklahoma came down. The suit was directed against the marketing of Duragesic fentanyl patches based on the allegation that sales reps told doctors that the patches had "*fewer side effects, worked better, and posed less risk of addiction than other opioids.*" The company's sales people had embarked on a campaign to convince doctors that they were "*under-treating*" pain. The FDA warned J&J on several occasions that those claims were false and misleading. Texas is seeking the repayment of all Medicaid money paid to the company for the drug and alleges that J&J significantly contributed to the opioid crisis. The case is pending.⁵

Soon after the verdict was handed down in the Oklahoma case, J&J agreed to commit \$4 billion to a settlement agreement reached in conjunction with three other drug companies facing opioid lawsuits which totals a whopping \$48 billion. The money includes not only cash payments, but contributions to treatments of various types. This October it was announced



that J&J will contribute an additional \$1 billion on top of the 4 billion it committed to the settlement. Company representatives stated: "*this additional amount results from continued negotiations and is intended to maximize participation in the settlement.*" Nonetheless, J&J is still pursuing its appeal in Oklahoma and fighting the Texas and New York cases pending approval of the global settlement agreement to resolve all opioid cases in the United States.⁶

THE PANDEMIC PERSISTS: ALLIANCE CARRIES ON VIA ZOOM

OCTOBER 2020 VIRTUAL MEETING



D.A. KRISTINA MILLS

Jefferson County District Attorney Kristyna Mills and Jefferson County Sheriff Colleen M. O’Neil give an update on Metro–Jeff Drug Task Force activities.



SHERIFF COLLEEN M. O’NEIL



RANDI FORBES



BILL DOYLE-TRI-COUNTY OVERDOSE PREVENTION



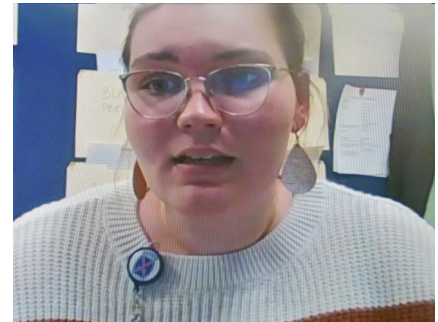
CASSIE FORBUS-TRI-COUNTY OVERDOSE PREVENTION



PATRICK HICKEY-NEIGHBORHOOD WATCH



LEON DONALDSON



SHELBY ANDERSON-NEEDLE EXCHANGE PROGRAM



CHAIRMAN JENNINGS



ANITA CONTROLS THE MEETING!



TAMMIE MILLER-PROJECT DIRECTOR

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Mother's Little Helper Is Back, and Daddy's Partaking Too:

excerpted from <https://www.nytimes.com/2020/10/03/style/am-i-drinking-too-much.html>

After the kids go to bed, the grown-ups are drinking and smoking pot to distract themselves from the hellscape that is pandemic parenting. The increase of substance use among parents is “just kind of understandable,” said Jonathan Metzl, the director of the department of medicine, health and society at Vanderbilt University. “This is an incredible, once-in-an-epoch stressful situation, and the kinds of outlets people usually have in their lives are just not available.”

They can't go to the office, can't go to the gym, and can't really see friends or family.

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Purdue Pharma to plead guilty in \$8billion opioid settlement :

excerpted from <https://www.bbc.com/news/business-54636002>

The maker of OxyContin painkillers has reached an \$8.3 billion settlement and agreed to plead guilty to criminal charges to resolve a probe of its role in fueling America's opioid crisis. Purdue Pharma will admit to enabling the supply of drugs "without legitimate medical purpose".

The deal with US Department of Justice resolves some of the most serious claims against the firm. But it still faces thousands of cases brought by states and families. Purdue called the deal an "essential" step to wider resolution of the matter. Purdue stated it “*deeply regrets and accepts responsibility for the misconduct.*”