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NATIONAL

Judge overturns settlement that protected the Sackler family from opioid lawsuits

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Heard on All Things Considered

BRIAN MANN

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A federal judge has overturned a bankruptcy settlement worth more than \$4 billion which granted immunity from opioid lawsuits to members of the Sackler family who own the company that makes Oxycontin.

AUDIE CORNISH, HOST:

In a surprising ruling late today, a federal judge in Manhattan overturned a controversial Purdue Pharma bankruptcy settlement, and that deal was worth more than \$4 billion. It granted immunity from opioid lawsuits to members of the Sackler family, who own Purdue Pharma. That's the company that makes OxyContin.

NPR addiction correspondent Brian Mann joins us now. Welcome back, Brian.

BRIAN MANN, BYLINE: Hi, Audie.

CORNISH: This deal took a long time to negotiate - right? - and to win approval from most states and even Purdue Pharma's creditors. Why did the judge overturn it?

MANN: Yeah. This settlement, which was approved back in September, did something controversial. It allowed members of the Sackler family to sort of piggyback on the bankruptcy of their company, Purdue Pharma, even though none of the family members themselves filed for bankruptcy. In fact, they're very wealthy. What the Sacklers offered to do is pay more than \$4 billion in exchange for a clean legal slate - meant no future lawsuits linked to OxyContin or the opioid crisis.

What happened today is that U.S. District Court Judge Colleen McMahon ruled that that kind of deal just isn't allowed under federal bankruptcy law. Lindsey Simon is a bankruptcy expert at the University of Georgia School of Law.

LINDSEY SIMON: She looked strictly at the bankruptcy code. Does the statute written by Congress allow the bankruptcy judge to address this sort of issue? And her conclusion is that the bankruptcy code, nothing in it give the judge authority to grant these releases. And as a result, the plan cannot be permitted to go forward as written.

MANN: But Simon said she was actually pretty shocked by this decision. It basically reverses a trend, Audie, from recent years where courts and judges were tending to allow releases from liability like the ones sought here by the Sacklers.

CORNISH: Did the judge raise other concerns about this deal?

MANN: Yeah. Judge McMahon also wrote at length about the Sacklers' decision to withdraw more than \$10 billion out of Purdue Pharma profits from opioid sales in the years before they left the company's board and before the company filed for bankruptcy. McMahon doesn't base her ruling here on that behavior, but during hearings over the past couple weeks, she signaled she had concerns about whether that activity was appropriate. The question she's raised is whether the Sacklers were trying to game the bankruptcy system.

CORNISH: How - sorry. What's been the response from the Sackler family or from Purdue Pharma?

MANN: We heard from one branch of the Sackler family. They said no comment on this ruling. Other members of the family have not responded, nor has Purdue Pharma.

The Sacklers have said all along that they did nothing wrong with opioid sales or with management of their financial affairs.

This is clearly a victory for critics of the Sacklers, who viewed this sort of legal firewall they were trying to create as an outrage. And while most of Purdue Pharma's victims eventually did vote in favor of this bankruptcy deal, hoping to win some compensation, there was this small group of really passionate opponents who continued to fight this deal. And they were supported by the U.S. Justice Department and a handful of state attorneys general, and those state attorneys general say they want to sue the Sacklers directly.

CORNISH: So this deal has been rejected. What happens next?

MANN: Well, for now, everything grinds to a halt. I spoke with sources last week close to this process who said they thought the bankruptcy plan might be implemented before the end of this month, which meant money from the settlement might have begun to flow to communities that need help paying for drug treatment and health care programs.

Now, none of that will happen in the short term. Lindsey Simon at the University of Georgia says she thinks it's certain this ruling will be appealed, and that means more legal wrangling.

SIMON: It reads very much like an opinion that is designed for appeal. It is the best effort from one court of where the landscape is today, asking for clarity on what it should be going forward, and I think that's the purpose of this opinion.

MANN: So this legal fight over Purdue Pharma and the role played by the Sacklers in the opioid crisis, it's not over. Legal experts have told me, Audie, that this could eventually reach the Supreme Court.

CORNISH: That's NPR addiction correspondent Brian Mann. Thank you for your reporting.

MANN: Thank you.

(SOUNDBITE OF GODSPEED YOU! BLACK EMPEROR'S "MOYA")

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**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

CVS HEALTH CORPORATION; CVS
CAREMARK CORPORATION; CVS
CORPORATION; and CVS PHARMACY,
INC.;

Plaintiffs.

v.

ACE AMERICAN INSURANCE COMPANY;
ACE PROPERTY AND CASUALTY
INSURANCE COMPANY; ALLIANZ
CORNHILL INTERNATIONAL; ALLIANZ
INSURANCE COMPANY;
AMERICAN GUARANTY AND LIABILITY
INSURANCE COMPANY; AMERICAN
HOME ASSURANCE COMPANY;
AMERICAN NATIONAL FIRE INSURANCE
COMPANY; AXIS INSURANCE
COMPANY; BERKLEY NATIONAL
INSURANCE COMPANY; CONTINENTAL
INSURANCE COMPANY; DISCOVER
PROPERTY & CASUALTY COMPANY;
ENDURANCE AMERICAN INSURANCE
COMPANY; FEDERAL INSURANCE
COMPANY; FIREMAN'S FUND
INSURANCE COMPANY; FIRST STATE
INSURANCE COMPANY; GEMINI
INSURANCE COMPANY; GREAT
AMERICAN ALLIANCE INSURANCE CO.
(f/k/a AMERICAN ALLIANCE INSURANCE
COMPANY); GREAT AMERICAN
INSURANCE COMPANY; GREAT
AMERICAN INSURANCE COMPANY OF
NEW YORK; GREENWICH INSURANCE
COMPANY; GULF INSURANCE
COMPANY; GULF UNDERWRITERS
INSURANCE COMPANY; ILLINOIS
NATIONAL INSURANCE COMPANY;
INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA; INTERSTATE
INDEMNITY COMPANY; LEXINGTON
INSURANCE COMPANY; LIBERTY
INSURANCE UNDERWRITERS, INC.;

C.A. NO. PC _____

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

LIBERTY INTERNATIONAL
UNDERWRITERS; LUMBERMENS
MUTUAL CASUALTY INSURANCE
COMPANY; NATIONAL SURETY
CORPORATION; NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH,
PA.; NEW HAMPSHIRE INSURANCE
COMPANY; NORTH AMERICAN
CAPACITY INSURANCE COMPANY;
NIAGARA FIRE INSURANCE COMPANY;
THE OHIO CASUALTY COMPANY;
RELIANCE INSURANCE COMPANY;
RELIANCE NATIONAL INDEMNITY
COMPANY; ROYAL INDEMNITY
COMPANY; ROYAL INSURANCE
COMPANY OF AMERICA; STARR EXCESS
LIABILITY INSURANCE COMPANY; ST.
PAUL FIRE & MARINE INSURANCE
COMPANY; TAMARACK AMERICAN,
INC.; TIG INSURANCE COMPANY;
THE TRAVELERS INDEMNITY
COMPANY; TWIN CITY FIRE INSURANCE
COMPANY; UNITED STATES FIDELITY &
GUARANTY COMPANY; VIGILANT
INSURANCE COMPANY; WESTCHESTER
FIRE INSURANCE COMPANY;
XL EUROPE LIMITED; XL INSURANCE
AMERICA, INC.; XL INSURANCE
COMPANY SE; ZURICH AMERICAN
INSURANCE GROUP; ZURICH
INSURANCE COMPANY LIMITED, and
DOES 1 through 50;

Defendants.

Plaintiffs CVS Health Corporation, CVS Caremark Corporation, CVS Corporation, CVS Pharmacy, Inc., on their own behalf and on behalf of the subsidiaries and related entities named in the underlying “Opioid Lawsuits” (as defined below) (collectively “CVS” or the “Insureds”), complain of the Defendants (collectively, the “Insurers” as identified below) and allege as follows:

NATURE OF THE ACTION

1. Consumer Value Stores was founded in 1963 in Lowell, Massachusetts. Within approximately one year, the company was selling health and beauty products in 17 locations. In or around 1967, the company began opening pharmacy departments in its stores and opened its first drugstore locations in the State of Rhode Island. Today, the collection of entities that operate drugstores and other healthcare operations nationwide is known as CVS. CVS's operations are headquartered in Woonsocket, Rhode Island.

2. Given its nationwide operations, CVS purchased broad general liability and "druggist liability" insurance policies from the Insurers to provide coverage for all sums CVS is legally obligated to pay as damages because of "bodily injury." By 1996, CVS was purchasing hundreds of millions of dollars in liability coverage on an annual basis and is also insured under liability policies sold to companies acquired by CVS (collectively, the "Policies"). The Policies include obligations to defend and/or indemnify CVS against, among other things, lawsuits alleging bodily injuries sustained by third parties, and to deal fairly and in good faith with CVS, giving its interests at least the same level of consideration as the Insurers give their own interests.

3. Starting in or around 2017, several thousand cities, counties, other government entities, Indian tribes, other entities, and individuals sued CVS and others in lawsuits seeking "damages" (as that term is used in the Policies) arising from injuries associated with the use of opioids, including past and future costs for medical treatment (the "Opioid Lawsuits"). They alleged, among other things, that CVS and others were liable for damages arising out of the alleged distribution, dispensing, furnishing, marketing, sale, and failure to warn or otherwise take appropriate actions regarding opioids. The Opioid Lawsuits allege that hundreds of thousands of individuals suffered injury, including death, from opioid use.

4. Although the Insurers were timely notified of these lawsuits, none acknowledged coverage. Instead, the Insurers failed to timely respond to CVS's notices, reserved their rights to deny coverage, or denied coverage in substantial part. The Insurers that owed CVS defense and indemnity duties breached those duties, in some instances acting unreasonably and breaching the implied covenants of good faith and fair dealing. The remaining Insurers dispute their duties. Thus, CVS and the Insurers disagree about the insurance to which CVS is entitled for the Opioid Lawsuits, including for CVS's defense costs and potential liability for damages that include response costs, treatment costs, medical care, and other damages allegedly resulting from injuries that are insured under the Policies.

5. CVS therefore seeks a declaration of its rights and the obligations of the Insurers that, under the Policies, CVS is entitled to defense or reimbursement of defense costs in connection with the Opioid Lawsuits and indemnification of CVS for any judgment or settlement amounts in the Opioid Lawsuits. CVS also seeks damages against the Insurers who presently are obligated to pay for its defense or indemnity, but have refused to do so, for breach of contract, and bad faith, including consequential damages, attorneys' fees, and punitive damages.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to the provisions of Rhode Island Superior Court Rules of Civil Procedure 57 and Rhode Island General Laws ("R.I.G.L.") §§ 9-30-1 and 9-30-2.

7. This matter is subject to the jurisdiction of this Court because CVS is headquartered in Rhode Island, the parties conduct business in Rhode Island, and the value of CVS's claims exceed the jurisdictional amount under R.I.G.L. §8-2-14.

8. Venue in this Court is proper pursuant to R.I.G.L. §§ 9-4-3 or 9-4-4 because CVS

is headquartered in Providence County, Rhode Island and the Insurers conduct business in or have sold insurance to CVS in Providence County, Rhode Island.

THE PARTIES

The Insureds

9. CVS Health Corporation is a Delaware corporation with its principal place of business in Woonsocket, Rhode Island. CVS Health Corporation is a holding company and the ultimate parent of CVS Pharmacy, Inc. which is the direct or indirect parent of at least 50 CVS entities that have been named as defendants in the Opioid Lawsuits along with CVS Health Corporation and CVS Pharmacy, Inc., including: Alabama CVS Pharmacy, L.L.C., Arizona CVS Stores, L.L.C., Arkansas CVS Pharmacy, L.L.C., CVS Albany, L.L.C., CVS Caremark Part D Services L.L.C., CVS Health Solutions LLC, CVS Health Welfare Benefit Plan, CVS Indiana, L.L.C., CVS Orlando, FL Distribution, L.L.C., CVS PA Distribution, L.L.C., CVS RS Arizona, L.L.C., CVS Rx Services, Inc., CVS TN Distribution, L.L.C., CVS Vero Florida Distribution, L.L.C., Georgia CVS Pharmacy, L.L.C., German Dobson CVS, L.L.C., Highland Park CVS L.L.C., Holiday CVS L.L.C., Kentucky CVS Pharmacy, L.L.C., Louisiana CVS Pharmacy, L.L.C., Maryland CVS Pharmacy, L.L.C., Mississippi CVS Pharmacy, L.L.C., Missouri CVS Pharmacy, L.L.C., Montana CVS Pharmacy, LLC, New Jersey CVS Pharmacy, LLC, Ohio CVS Stores, L.L.C., Oklahoma CVS Pharmacy, L.L.C., Pennsylvania CVS Pharmacy, L.L.C., Puerto Rico CVS Pharmacy, L.L.C., South Carolina CVS Pharmacy, L.L.C., Tennessee CVS Pharmacy, L.L.C., Virginia CVS Pharmacy, L.L.C., West Virginia CVS Pharmacy, L.L.C., Woodward Detroit CVS, L.L.C., Caremark Repack, L.L.C., Caremark Rx, L.L.C., Caremark Texas Mail Pharmacy, L.L.C., Caremark, L.L.C., CaremarkPCS Health, L.L.C., CaremarkPCS, L.L.C., CVS Caremark Part D Services L.L.C., Coram Healthcare Corporation of Greater New York, Home

Care Pharmacy, L.L.C., Interlock Pharmacy Systems, L.L.C., Longs Drug Stores California, L.L.C., NeighborCare Pharmacy Services, Inc., Omnicare Distribution Center, L.L.C., Omnicare of New York, L.L.C., Omnicare Pharmacy of the Midwest, L.L.C., and Omnicare LLC (formerly Omnicare, Inc.).

10. CVS Health Corporation was originally known as CVS Corporation when it was formed in August 1996, at which time CVS Corporation was a subsidiary of Melville Corporation, which was later merged out of existence. CVS Corporation changed its name to CVS Caremark Corporation following a 2007 merger transaction involving Caremark Rx, Inc. and it was renamed CVS Health Corporation in September 2014.

11. CVS Pharmacy, Inc. is a Rhode Island corporation with its principal place of business in Rhode Island and is a subsidiary and the primary operating entity of CVS Health Corporation. Directly, and through its direct and indirect subsidiaries, CVS Pharmacy, Inc. offers an array of products and services, including retail and long-term care pharmacy services, walk-in medical clinics, pharmacy benefit management (PBM) services, and mail order and specialty pharmacy, and retail and long-term care pharmacy services. Collectively, the company has more than 9,900 retail locations, nearly 1,200 walk-in medical clinics, a leading pharmacy benefits manager with 110 million plan members, and a dedicated senior pharmacy care business serving more than one million patients per year. The company's subsidiaries also serve millions of people through traditional, voluntary and consumer-directed health insurance products and related services, including expanding Medicare Advantage offerings and a leading standalone Medicare Part D prescription drug plan.

12. CVS or its related entities are the named insureds under the Policies and CVS is authorized to act on behalf of the other CVS entities in pursuing coverage under the Policies with

respect to the Opioid Lawsuits.

The Insurers

13. CVS is informed and believes, and on that basis alleges, that each of the Insurers is licensed or otherwise transacts business in the State of Rhode Island and sold insurance policies to businesses in Rhode Island, including CVS.

14. Defendant ACE American Insurance Company is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

15. Defendant ACE Property and Casualty Insurance Company (“ACE Property and Casualty”) is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

16. Defendant Allianz Cornhill International is an English corporation with its principal place of business in London, England.

17. Defendant Allianz Insurance Company is an Illinois corporation with its principal place of business in Chicago, Illinois.

18. Defendant American Guarantee and Liability Insurance Company is a New York corporation with its principal place of business in Schaumburg, Illinois. American Guarantee and Liability Insurance Company is a member of the Zurich group of companies.

19. Defendant American Home Assurance Company (“American Home”) is a New York corporation with its principal place of business in New York, New York. American Home is a member of American International Group Inc. (“AIG”).

20. Defendant American National Fire Insurance Co. is a New York corporation with its principal place of business in Cincinnati, Ohio.

21. Defendant Axis Insurance Company is an Illinois corporation with its principal

place of business in Alpharetta, Georgia.

22. Defendant Berkley National Insurance Company is an Iowa corporation with its principal place of business in Naperville, Illinois.

23. Defendant Continental Insurance Company is a Pennsylvania corporation with its principal place of business in Chicago, Illinois.

24. CVS is informed and believes, and on that basis alleges, that Defendant Discover Property & Casualty Company ("Discover") is a Connecticut corporation with its principal place of business in Hartford, Connecticut. Discover Property & Casualty Company is part of the Travelers group of insurance companies.

25. Defendant Endurance American Insurance Company is a Delaware corporation with its principal place of business in New York, New York.

26. Defendant Federal Insurance Company is an Indiana corporation with its principal place of business in Warren, New Jersey.

27. Defendant Fireman's Fund Insurance Company is an Illinois corporation with its principal place of business in Chicago, Illinois.

28. Defendant First State Insurance Company is a Connecticut corporation with its principal place of business in Boston, Massachusetts.

29. Defendant Gemini Insurance Company is a Delaware corporation with its principal place of business in Scottsdale, Arizona.

30. Defendant Great American Alliance Insurance Company is an Ohio corporation with its principal place of business in Cincinnati, Ohio. It was formerly known as American Alliance Insurance Company.

31. Defendant Great American Insurance Company is an Ohio corporation with its

principal place of business in Cincinnati, Ohio.

32. Defendant Great American Insurance Company of New York is a New York corporation with its principal place of business in Cincinnati, Ohio.

33. Defendant Greenwich Insurance Company ("Greenwich") is a Delaware corporation with its principal place of business in Stamford, Connecticut. Greenwich is a member of the AXA XL Insurance group of companies.

34. CVS is informed and believes, and on that basis alleges, that defendant Gulf Insurance Company (domiciled in Connecticut) merged with and into defendant The Travelers Indemnity Company.

35. Defendant Gulf Underwriters Insurance Company is a Connecticut corporation with its principal place of business in Hartford, Connecticut.

36. Defendant Illinois National Insurance Company is an Illinois corporation with its principal place of business in New York, New York. Illinois National Insurance Company is a member of the AIG group of companies.

37. Defendant Indemnity Insurance Company of North America is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

38. Defendant Interstate Indemnity Company is an Illinois corporation with its principal place of business in Chicago, Illinois.

39. Defendant Lexington Insurance Company is a Delaware corporation with its principal place of business in Boston, Massachusetts. Lexington Insurance Company is a member of the AIG group of companies.

40. Defendant Liberty Insurance Underwriters, Inc. is an Illinois corporation with its principal place of business in Boston, Massachusetts.

41. Defendant Liberty International Underwriters is an Illinois corporation with its principal place of business in Boston, Massachusetts.

42. Defendant Lumbermen's Mutual Casualty Insurance Company is a Missouri corporation with its principal place of business in Boca Raton, Florida.

43. Defendant National Surety Corporation is an Illinois corporation with its principal place of business in Chicago, Illinois.

44. Defendant National Union Fire Insurance Company of Pittsburgh, PA ("National Union") is a Pennsylvania corporation with its principal place of business in New York, New York.

45. Defendant New Hampshire Insurance Company ("New Hampshire") is an Illinois corporation with its principal place of business in New York, New York. New Hampshire is a member of the AIG group of companies.

46. Defendant Niagara Fire Insurance Company an Illinois corporation with its principal place of business in Chicago, Illinois.

47. Defendant North American Capacity Insurance Company is a New Hampshire corporation with its principal place of business in Kansas City, Missouri.

48. Defendant The Ohio Casualty Insurance Company is a New Hampshire corporation with its principal place of business in Boston, Massachusetts.

49. Defendant Reliance Insurance Company is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

50. Defendant Reliance National Indemnity Company is a Wisconsin corporation with its principal place of business in Philadelphia, Pennsylvania.

51. Defendant Royal Indemnity Company is a Delaware corporation with its principal

place of business in Charlotte, North Carolina.

52. Defendant Royal Insurance Company of America is an Illinois corporation with its principal place of business in Charlotte, North Carolina.

53. CVS is informed and believes, and on that basis alleges, that Defendant Starr Excess Liability Company is a wholly owned subsidiary of the AIG group of companies with its principal place of business in New York, New York.

54. Defendant St. Paul Fire & Marine Insurance Company is a Minnesota corporation with its principal place of business in St. Paul, Minnesota.

55. CVS is informed and believes, and on that basis alleges, that Defendant Tamarack American, Inc. is a wholly owned subsidiary of Great American Insurance Company with its principal place of business in New York, New York.

56. Defendant TIG Insurance Company is a California corporation with its principal place of business in Manchester, New Hampshire.

57. Defendant The Travelers Indemnity Company is a Connecticut corporation with its principal place of business in Hartford, Connecticut.

58. Defendant Twin City Fire Insurance Company is an Indiana corporation with its principal place of business in Hartford, Connecticut.

59. Defendant United States Fidelity & Guaranty Company ("USF&G") is a Connecticut corporation with its principal place of business in Hartford, Connecticut. USF&G is part of the Travelers group of insurance companies.

60. Defendant Vigilant Insurance Company is a New York corporation with its principal place of business in New York, New York. Vigilant is part of the Chubb group of companies.

61. Defendant Westchester Fire Insurance Company is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania.

62. Defendant XL Europe Ltd. is an Irish corporation with its principal place of business in Dublin, Ireland.

63. Defendant XL Insurance America, Inc. is a Delaware corporation with its principal place of business in Stamford, Connecticut.

64. Defendant XL Insurance Company SE is an Irish corporation with its principal place of business in London, England.

65. Defendant Zurich American Insurance Group is a New York corporation with its principal place of business in Schaumburg, Illinois.

66. Defendant Zurich Insurance Company Limited is a Swiss corporation with its principal place of business in Zurich, Switzerland.

67. CVS is ignorant of the true names and capacities, whether individual, associate, partnership, corporate, or otherwise, of the defendants fictitiously designated herein as Does 1 through 50, and therefore sues those defendants by these fictitious names. CVS will seek leave of court to amend this Complaint when the true names and capacities of these fictitiously designated defendants have been ascertained.

68. CVS is informed and believes, and on that basis alleges, that Does 1 through 50, in some way unknown to CVS, have underwritten or provided insurance coverage to CVS, or are otherwise responsible for or obligated to pay the monies sought by CVS in this action, and that Does 1 through 50 are authorized to, and do, transact insurance business in the State of Rhode Island.

69. CVS is informed and believes, and on that basis alleges, that each of the Insurers

has for years made broad statements and representations in their communications to the public, potential insureds, and CVS regarding the breadth of their insurance, how they look out for their insureds' interests, and how they promptly and fairly handle claims for coverage.

70. Chubb, for example, states the following on its website:

How is Chubb different?

We don't just process claims, we make things right.

We hope you never need to file a claim with us. But if you do, that's our opportunity to show you what "craftsmanship" means in service to you. It means a quick response when you need it most. It means Chubb people working with empathy, integrity and our legendary attention to detail to make you whole. It means we honor the promises we've made to you. Your loved ones, your employees, your home, your business reputation—these things matter. These things are personal, for you and for us.

We're here to help.¹

71. Chubb also represents to the public:

- "If being treated fairly and paid quickly are important to your clients when they have a loss, you want Chubb. When your clients insure with Chubb, they're buying real insurance." Chubb Ad, *Business Insurance*, at 11 (Apr. 4, 2008); and
- "The insurance claims process can sometimes be, well, a process. At Chubb, it's different. That's because we're not just in the insurance business, we're in the people business. Our experienced claims specialists are relentless about every detail in the most personal way possible. Whether you have a business,

¹ Chubb, What Makes Chubb Different? (February 13, 2022), available at <https://www.chubb.com/us-en/claims/claims-difference.aspx>.

homeowners or auto policy, it's our policy to make your life easier. . . . If a solution is possible, we'll find a way to make it happen.²

THE POLICIES

72. CVS purchased hundreds of millions of dollars in general liability and druggist liability insurance per year from at least 1996 through the present from the Insurers.

73. Many of these policies are “primary” or first-level policies, meaning that they obligate the issuing Insurers to defend or pay for CVS’s defense and to indemnify CVS subject only to the satisfaction of any applicable deductibles or retentions. Those policies were issued by ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G.

74. The remaining policies are excess or umbrella policies, meaning that they obligate the issuing Insurers to defend or pay for CVS’s defense and to indemnify CVS when the underlying Policies are exhausted or otherwise are not paying for CVS’s defense and indemnity.

75. The Policies include substantially identical language by which the Insurers agreed to defend, or pay for the defense of, CVS for suits seeking “damages” for, among other things, “bodily injury” and to indemnify CVS for damages awarded in such suits, whether by judgments or settlements.

76. For example, National Union Fire Insurance Company of Pittsburgh, PA, policy number 143-80-77 (the “National Union Policy”), with a policy period of January 1, 1997, to January 1, 1998, is a general liability policy that obligates National Union to “pay those sums that the insured becomes legally obligated to pay as damages because of ‘bodily injury’ or

² Chubb, Welcome to Chubb Claims (February 13, 2022), available at <https://www.chubb.com/us-en/claims/>.

‘property damage’ to which this insurance applies. [National Union] will have the right and duty to defend the insured against any ‘suit’ seeking those damages.”

77. The National Union Policy defines “bodily injury” as “bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.”

78. The National Union Policy further provides that the insurance applies to “bodily injury” caused by an “occurrence” that takes place in the “coverage territory” and occurs during the policy period.

79. The National Union Policy defines an “Occurrence” as “an accident, including continuous or repeated exposure to substantially the same general harmful conditions.”

80. The National Union Policy defines the “Coverage Territory” to include the whole of the United States of America.

81. Beginning in or about 2006, the Insurers, including American Home Assurance Company (a sister company of National Union), also sold druggist liability policies to CVS which specifically provided that coverage for “‘bodily injury’ arising out of the rendering of or failure to render professional health care services as a pharmacist shall be deemed to be caused by an ‘occurrence.’”

82. The Insurers, the Policies, and policy years, are identified in Exhibit A attached hereto and incorporated by reference. An example of one such Policy, American Home Assurance Company, Policy No. GL 583-59-70, is attached hereto as Exhibit B and incorporated by reference.

83. Because CVS is headquartered in Woonsocket and maintains its primary place of business in this State, the Policies generally contain Rhode Island-specific endorsements and notices. Such state-specific references in insurance policies are generally required to comply

with the related regulatory requirements of the Named Insured's home state or domicile.

Examples include:

- "Rhode Island Changes – Prejudgment Interest";
- "Rhode Island Changes" (regarding the transfer of rights of recovery); and
- "Rhode Island Changes – Cancellation and Nonrenewal."

See Exhibit B.

THE OPIOID LAWSUITS

84. Each of the thousands of Opioid Lawsuits includes allegations that CVS is obligated to pay damages because of "bodily injury" caused by an "occurrence" as those terms are used in the Policies.

85. For example, *Cherokee Nation v. Purdue Pharma L.P.*, No. 6:18-cv-00056 (E.D. Okla.), in which CVS is a named defendant, is considered a bellwether case brought by a sovereign tribal government. A true copy of the *Cherokee Nation* First Amended Complaint is attached hereto as Exhibit C and incorporated by reference. The *Cherokee Nation* complaint contains multiple allegations of damages caused by bodily injury. For example, the Cherokee Nation alleges that:

- Opioids "can cause addiction, overdose, and death" (*Cherokee* Compl. ¶ 2);
- "Hundreds of American Indians have died of opioid overdoses in recent years. And the number of lethal overdoses hardly captures the impact of Defendants' conduct on Cherokee Nation citizens. For every opioid overdose death, it is estimated that there are 10 treatment admissions for abuse, 32 emergency room visits, 130 people who are addicted to opioids, and 825 non-medical users of opioids" (*Id.* ¶ 11);

- “Damages suffered by Cherokee Nation include the costs of (a) medical care, therapeutic and prescription drugs, and other treatments for patients suffering from opioid-related addiction, overdoses, or disease; (b) law enforcement by Cherokee Nation’s own law enforcement agencies and public safety measures necessitated by the ongoing opioid crisis; (c) opioid-related counseling and rehabilitation services; (d) welfare for children whose parents suffer from opioid-related disease or incapacitation; (e) increased crime, property damage, and public blight caused by opioids” (*Id.* ¶ 14); and
- “For every opioid-related death within Cherokee Nation, there are numerous hospital admissions and emergency room visits related to opioids, as well as instances of dependence and non-medical use of opioids, all of which have adverse consequences on the Cherokee Nation” (*Id.* ¶ 36).

86. By way of further example, in *State of Florida v. Purdue Pharma L.P.*, Case No. 2018-CA-001438 (Fl. Cir. Ct.), in which CVS is a named defendant, the State of Florida alleges as follows in its “Negligence” cause of action:

- “Defendants’ breach of duty is the proximate cause and a substantial factor contributing to the damages suffered by the State of Florida and its citizens alleged in this Amended Complaint, including but not limited to medical costs, unemployment costs, drug treatment costs, emergency personnel costs, law enforcement costs, naloxone costs, medical examiner costs, foster care expenses, lost productivity, and lost tax revenues.” *State Compl.* ¶ 482.

87. In *City of Philadelphia v. CVS Indiana, LLC*, No. 2:21-cv-04701 (C.P. Phila.), in which CVS is a named defendant, the Complaint alleges that:

- 84% of overdose deaths in 2019 were opioid related (*City Compl.* ¶ 7);
- “Categories of past and continuing damages sustained by the City include, but are not limited to: (1) 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; (2) costs for providing treatment, counseling, and rehabilitation services; (3) costs for providing treatment of infants born with opioid-related medical conditions; (4) costs for providing welfare for children whose parents suffer from opioid-related disability or incapacitation” (*Id.* ¶ 19);
- Confirming that the City “seeks to require Defendants to pay for the cost of detoxification and treatment, including after-care, of every resident in the City currently suffering from opioid addiction attributable to prescription opioids” (*Id.* ¶ 20);
- “The City also seeks recovery of its costs of increased municipal services directly associated with opioid addiction, fatal and non-fatal overdoses” (*Id.* ¶ 21); and
- “The foreseeable harm resulting from the diversion of prescription opioids for nonmedical purposes is abuse, addiction, morbidity and mortality in the City and the damages caused thereby” (*Id.* ¶ 118).

88. Just days prior to the filing of this action, the plaintiffs in the first bellwether case against CVS in the federal multidistrict litigation overseen by U.S. District Judge Dan Polster enumerated millions in costs associated with “Treatment for Opioid Use Disorder” that they seek to recover from CVS, including the related costs for “treatment.” *In re: National Prescription*

Litig., Dkt. No. 4277 at 12-13, 34-35 (Filed on Feb. 11, 2022).

89. The Opioid Lawsuits sought various forms of monetary relief from CVS. The relief sought included compensatory and consequential damages for past and future medical, emergency room, emergency medical technician and paramedic, and treatment expenses. Indeed, as at least one federal MDL court has observed, “we [need to] get some amount of money to the government agencies for treatment. Because sadly, every day more and more people are being addicted, and they need treatment.” Transcript of Proceedings, Hon. Daniel A. Polster, *In re: National Prescription Litig.*, MDL No. 2804, Case No. 1:17-cv-2804 (N.D. Ohio Jan. 19, 2018).

CVS’S NOTICE OF THE OPIOID LAWSUITS AND THE INSURERS’ RESPONSES

90. CVS timely notified the Insurers of each of the Opioid Lawsuits.

91. Each of the Insurers either reserved their rights to deny coverage or denied coverage to CVS.

92. For example, by a January 8, 2018, letter, ACE Property and Casualty Company incorrectly claimed, among other things, that the underlying lawsuits did not allege “damages because of ‘bodily injury’” and that the Opioid Lawsuits entirely alleged “intentional acts” and, thus, there was not allegation of a coverage triggering “occurrence.” ACE Property and Casualty Company further asserted, without more, that all the allegations in the Opioid Lawsuits allege or suggest that CVS “expected or intended” “bodily injury.”

93. By way of further example, in a June 5, 2020, letter, Allianz Insurance Company admitted that it had received, but had done no individual analysis of, any Opioid Lawsuits. In fact, Allianz failed to cite to any allegation in any Opioid Lawsuit, instead generally purporting to summarize what they “typically” or “generally” allege. Allianz also incorrectly concluded

that none of the underlying actions alleged a “bodily injury” and invoked an “Incidental Medical Malpractice” Endorsement in order to avoid its coverage allegations, concluding that it has “no duty to defend, no obligation to reimburse defense costs, and no obligation to indemnify CVS.”

94. On July 9, 2020, CVS responded to Allianz, pointing out, among other things, specific underlying allegations of bodily injury and articulated that the “Incidental Medical Malpractice” Endorsement was plainly inapplicable because it purports to bar coverage only for medical malpractice by “Nurses, Paramedics and Emergency Medical Technicians” and CVS pharmacies do not provide medical advice or care and do not employ Nurses, Paramedics or Emergency Medical Technicians.

95. CVS has sustained and will continue to sustain damages as a result of the denials and the failures of the Insurers to provide, or agree to provide, the promised insurance to CVS in connection with the Opioid Lawsuits.

96. The Opioid Lawsuits allege facts and causes of action that are covered or at least potentially covered by the Policies in that they seek damages based upon allegations of “bodily injury” caused by an “occurrence” for which CVS is legally obligated to pay.

FIRST CAUSE OF ACTION

Breach of Contract against ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G

97. CVS realleges and incorporates by reference the allegations contained in all paragraphs above as though fully alleged herein.

98. ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G have breached their duties under the Policies that they sold to CVS by, among other things, unreasonably stating that there is no coverage for the Opioid Lawsuits under the Policies that they sold to CVS.

99. As a direct and proximate result of ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G's contractual breaches, CVS has sustained substantial damages for which the insurers are liable, in amounts to be established at trial. CVS is also entitled to interest on its damages at the legal rate.

SECOND CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing against ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G

100. CVS realleges and incorporates by reference the allegations contained in all paragraphs above as though fully alleged herein.

101. At all pertinent times, ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G had a duty to act in good faith and deal fairly with CVS as their insured, and were and are forbidden from doing anything that has the effect of destroying or injuring CVS's right to receive the full benefits of the Policies. This is a duty that extends to and informs these insurers' obligations under the Policies they sold to CVS.

102. The duty of good faith and fair dealing includes affirmative duties to promptly, fairly, and honestly investigate and evaluate each claim, to reach valid coverage positions, and to clearly state the reasons and bases for coverage positions.

103. Instead of complying with these duties, ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G breached their duties of good faith and fair dealing by, among other things:

- a. failing to conduct a full and thorough investigation of CVS's claims for insurance coverage and asserting grounds for denying coverage without conducting such investigation;

- b. wrongfully and unreasonably asserting grounds for denying coverage that they knew, or should have known, are not supported by, and in fact are contrary to, the terms of the Policies they sold to CVS, the law, and the facts;
- c. failing to fully inquire into the bases that might support coverage for CVS's claims;
- d. failing to conduct an adequate investigation of the losses suffered by CVS, and asserting grounds for disputing coverage based on its inadequate investigation;
- e. unreasonably delaying its communications and decisions with respect to CVS's claims;
- f. unreasonably failing and refusing to honor its promises and representations in the policies they sold to CVS;
- g. giving greater consideration to their own interests than they gave to CVS's interests; and
- h. otherwise acting as alleged above.

104. In breach of the implied covenant of good faith and fair dealing, ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G did the things and committed the acts alleged above for the purpose of consciously withholding from CVS the rights and benefits to which it is and was entitled under the Policies that they sold to CVS.

105. As a direct and proximate result of these breaches, which are continuing as of the date of the filing of this Complaint, CVS has sustained significant damages for which these insurers are liable.

THIRD CAUSE OF ACTION

Statutory Bad Faith (R.I. Gen. Laws § 9-1-33) against ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G

106. CVS realleges and incorporates by reference the allegations contained in all paragraphs above as though fully alleged herein.

107. Pursuant to R.I. Gen. Laws § 9-1-33, ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G had a duty to timely perform their obligations under the Policies they sold to CVS, and were and are forbidden from wrongfully and in bad faith refusing to timely perform their obligations under the Policies they sold to CVS.

108. Despite these requirements, these insurers denied coverage, improperly reserved their rights to deny coverage, or otherwise refused payment without a reasonable basis in fact or law for the denial, reservation of rights to deny, or refusal.

109. These insurers therefore did the things and committed the acts alleged above, in contravention of R.I. Gen. Laws § 9-1-33, for the purpose of consciously withholding from CVS the rights and benefits to which it is and was entitled under the Policies they sold to CVS.

110. As a result of their actions, CVS was forced to prosecute this action against ACE Property & Casualty, American Home, Discover, Greenwich, National Union, New Hampshire, and USF&G.

111. As a direct and proximate result of their violation of R.I. Gen. Laws § 9-1-33, in addition to the compensatory damages it has suffered for which these insurers are liable, CVS is also entitled to punitive damages and reasonable attorney fees.

FOURTH CAUSE OF ACTION

Declaratory Judgment against All Insurers

112. CVS realleges and incorporates by reference the allegations contained in all paragraphs above as though fully alleged herein.

113. CVS contends that it is entitled to coverage under the Policies for its defense costs and any damages it may be obligated pay in the Opioid Lawsuits. CVS is informed and believes, and on that basis alleges, that the Insurers dispute that CVS is entitled to such coverage. Therefore, an actual and justiciable controversy exists between CVS and the Insurers concerning the interpretation and construction of the Policies, and the rights and obligations of the parties thereto, with respect to CVS's claims.

114. CVS seeks a judicial declaration from this Court confirming CVS's contentions that:

- a. Each coverage position of CVS as stated above is correct;
- b. No exclusion in any Policy bars or limits coverage, in whole or in part, for CVS's losses; and
- c. The Policies cover CVS's losses.

A declaration is necessary at this time in order that the parties' dispute may be resolved and that they may be aware of their prospective rights and duties.

PRAYER FOR RELIEF

WHEREFORE, CVS prays for relief as follows:

ON THE FIRST CAUSE OF ACTION

1. For compensatory damages and consequential damages, plus interest, in an amount to be determined at trial;

ON THE SECOND CAUSE OF ACTION

2. For compensatory damages and consequential damages, plus interest, in an amount to be determined at trial;

ON THE THIRD CAUSE OF ACTION

3. For compensatory damages, interest, reasonable attorneys' fees, and punitive damages, in amounts to be determined at trial;

ON THE FOURTH CAUSE OF ACTION

4. For declarations in accord with CVS's contentions stated above;

ON ALL CAUSES OF ACTION

5. For costs of suit herein; and
6. For such other, further, and/or different relief as may be deemed just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in this action.

[SIGNATURE TO FOLLOW ON SUBSEQUENT PAGE]

Respectfully Submitted,

CVS HEALTH CORPORATION; CVS CAREMARK
CORPORATION; CVS CORPORATION; and
CVS PHARMACY, INC.;

By their attorneys,

/s/ Matthew H. Parker

Matthew H. Parker (#8111)
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DATED: February 14, 2022

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From: Christopher Descoteau
Sent: Monday, March 21, 2022 10:04 AM
To: Robert A. Whitney; David W. Zizik
Cc: Christopher J. Pyles; Marie P. Bresilla; Stephanie A. Hood; Kevin C. Cain; Darlene P. Burke; Donna Marie Santoro
Subject: RE: *URGENT* RI CVS Opioid Lawsuit - Waiver of conflicts

Done, I locked both at the client level so any new matters will be subject to the same restrictions.



New Hampshire | Maine | Massachusetts | Rhode Island | Vermont

Christopher Descoteau, *Systems and IT Director*
Sulloway & Hollis, P.L.L.C.
9 Capitol Street, Concord, NH, 03301-6310
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From: Robert A. Whitney
Sent: Monday, March 21, 2022 9:33 AM
To: David W. Zizik
Cc: Christopher J. Pyles ; Marie P. Bresilla ; Stephanie A. Hood ; Kevin C. Cain ; Darlene P. Burke ; Donna Marie Santoro ; Christopher Descoteau
Subject: RE: *URGENT* RI CVS Opioid Lawsuit - Waiver of conflicts
Importance: High

David –

I hope you are doing well. Here are the carriers that Kevin and I are representing in the CVS Opioid lawsuit pending in R.I: – **Fireman's Fund Insurance Co.; Allianz Insurance Co.; Allianz Cornhill Int'l; Interstate Indemnity Co.; and National Surety Corp.** (collectively, "Fireman's Fund").

Right now, just Kevin Cain, Marie Bresilla and myself are authorized to work on this matter on behalf of Fireman's Fund.

I will obtain the necessary formal waiver from Fireman's Fund with respect to the firm's work on behalf of Axis Surplus Insurance Company in this case.

Thanks!

Rob



New Hampshire | Maine | Massachusetts | Rhode Island | Vermont

Robert A. Whitney, Attorney

Sulloway & Hollis, P.L.L.C.

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From: Marie P. Bresilla

Sent: Monday, March 21, 2022 8:54 AM

To: David W. Zizik <dzizik@sulloway.com>

Cc: Christopher J. Pyles <cpyles@sulloway.com>; Stephanie A. Hood <SHOOD@sulloway.com>; Robert A. Whitney <rwhitney@sulloway.com>; Kevin C. Cain <kcain@sulloway.com>; Darlene P. Burke <dburke@sulloway.com>; Donna Marie Santoro <dsantoro@sulloway.com>

Subject: RE: *URGENT* RI CVS Opioid Lawsuit - Waiver of conflicts

Importance: High

Good morning David:

Kevin is out of the office attending a **CLM Annual Conference**. He is expected back in the office on **Thursday**.

Regarding the CVS Opioid lawsuit in the Rhode Island Case, Kevin and Attorney Robert Whitney (copied) are representing **Fireman's Fund** and **affiliated carriers** as local counsel (**Matter # 123154-1**).

Kevin will be checking his email and I am copying him on this email to get in touch with you in reference to your email below.

Thank you.

National Opioid Settlement

Executive Summary

[Subject to ongoing corrections and updates]

After agreements were finalized with the three pharmaceutical distributors, the National Opioid litigation moved into a new phase including cases against pharmacy chains. In early November 2022, agreements-in-principle were announced with three pharmacy chains – CVS, Walgreens and Walmart. The PEC is continuing to work with these defendants and attorney general working groups across the country to finalize the details of these agreements, including determining the allocation of the funds to states and municipalities. Dependent on participation by states and municipalities, the agreement-in-principles are as follows:

- Walgreens totaling \$5.7 billion will be paid out over 15 years after its effective date
- CVS totaling \$5 billion will be paid out over 10 years
- Walmart totaling \$3.1 billion as an expedited payment

These agreements need to be finalized, as they follow a similar procedure as the distributor settlements (i.e., an “opt-in” agreement with states and local governments). Participation levels also affect how much money settling parties will receive; put simply, the greater the level of participation, the more funds will ultimately be paid out for abatement. More information will become available over the coming months.

Previous information

Nationwide settlements have been reached to resolve all Opioids litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors: McKesson, Cardinal Health and AmerisourceBergen (“Distributors”), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, “J&J”). These settlements will provide substantial funds to states and subdivisions for abatement of the Opioids epidemic across the country and will impose transformative changes in the way the settling defendants conduct their business.

If the proposed settlements are fully adopted by states and subdivisions nationwide:

- The Distributors will pay a maximum of \$21 billion over 18 years, while J&J will pay a maximum of \$5 billion over no more than nine years, with approximately \$22.8 billion in settlement proceeds payable

to state and local subdivisions.[1] . Of the funds going directly to participating states and subdivisions, at least 85% must be used for abatement of the Opioid Epidemic, with the overwhelming bulk of the proceeds restricted to funding future abatement efforts by state and local governments.

- The Distributors will make an initial deposit of funds into escrow by the end of September 2021, with additional deposits by J&J and the Distributors in early Summer of 2022.
- Funds can begin to flow to states and local governments as early as April 2022, depending on when a settling State meets certain requirements. The J&J agreement also offers opportunities for significant acceleration of payments if states and subdivisions meet specified participation levels.
- The settlements will allow for a broad range of approved abatement uses by state and local governments. Developed in consultation with the nation's leading public health experts, the list of pre-approved uses includes a wide range of intervention, treatment, education, and recovery services so that state and local governments can decide what will best serve their communities. It is anticipated that entire communities will benefit from the effects of the opioid-remediation efforts funded by the settlements and the injunctive relief the settlements provide.
- In addition to billions of dollars for abatement, the agreements also provide for injunctive relief that requires important changes to the Distributors' and J&J's conduct to better protect our nation's health and welfare. This reform package includes the creation of a groundbreaking clearinghouse through which the Distributors will be required to account not only for their own shipments, but also the shipments of the other distributors, in order to detect, stop, and report suspicious Opioids orders. In addition, J&J (which ceased marketing Opioids in 2015 and ceased selling Opioids in 2020) will not market or sell any Opioid products in the next ten years and has agreed to cease lobbying concerning prescription opioids for ten years. J&J also has agreed to make the clinical trial data for its discontinued Opioids available for medical research.
- Less than 10% of the settlement proceeds will be earmarked to compensate private lawyers who have been prosecuting Opioids cases on behalf of state and local governments for several years and have incurred substantial out of pocket costs. Compensation will occur through an application procedure overseen by court-appointed arbiters. An additional sum is provided to settling States that did not hire outside counsel, to use towards furthering the abatement goal and to defray their investigation and litigation costs.

These are not class action "opt out" settlements. Instead, these settlements require that a critical mass of both state and local governments "opt in" over the next six months. The extent of this participation will determine whether the settlement agreements take effect. The Distributors and J&J on the one hand, and the states and subdivisions on the other, each have options to walk away if they are not satisfied with levels of participation. Participation levels also affect how much money settling parties will receive because about half of the abatement funds are in the form of "incentive payments" and certain other settlement provisions also provide incentives for higher levels of participation. Put simply, the greater the level of participation, the more funds will ultimately be paid out for abatement.

The Tribes, the Distributors, and J&J are also working toward resolution of Tribal Opioids claims through mediations under the auspices of the MDL court.

The agreements with the Distributors and J&J are the culmination of almost three years of intense negotiations among representatives of the State Attorneys General, the court-appointed Plaintiffs' Executive Committee and Negotiation Committee comprised of lawyers in the National Prescription Opiate MDL who represent subdivisions, and counsel to the Distributors and J&J, facilitated by Judge Dan Polster (who oversees the federal MDL litigation) and by the Special Masters appointed by the MDL Court.

The agreements, if adopted, will not settle or release any claims brought by private parties, including private individuals, private hospitals, or private third-party payers.

[1] West Virginia previously settled with the Distributors in an unrelated settlement. A portion of the Distributors' settlement funds (\$491 million) is treated as a credit toward potential settlements with West Virginia subdivisions and with Tribes. For J&J's agreement, a portion of the settlement funds (\$270 million) is treated as a credit for Oklahoma (which obtained a trial verdict against J&J), the Tribes, and other litigation cost for non-participating entities.

Statement on Teva/Allergan settlements

The following is a statement on behalf of the court-appointed leadership and negotiating team in the National Prescription Opiate Litigation MDL: Jayne Conroy of Simmons Hanly Conroy; Paul T. Farrell Jr. of Farrell & Fuller Law LLC; Joe Rice of Motley Rice LLC; Russell Budd of Baron & Budd, P.C.; Elizabeth Cabraser of Lieff Cabraser Heimann & Bernstein, LLP; Paul Geller of Robbins Geller Rudman & Dowd LLP; Peter Mougey of Levin Papantonio Rafferty; Christopher Seeger of Seeger Weiss LLP; Hunter Shkolnik of Napoli Shkolnik PLLC; and Steven Skikos of Skikos, Crawford, Skikos & Joseph LLP.

“The finalized agreements with Allergan for \$2.37 billion and Teva for up to \$4.25 billion including previous settlements are significant steps forward in our continued efforts to hold those responsible for the opioid epidemic accountable and obtain the necessary resources to battle its catastrophic effects. As a direct result of the hard work of community leaders, first responders, and the MDL litigation teams, communities across the country will be provided with the financial and medical resources necessary to continue their life-saving work.

“Along with the attorney generals with whom we continue to tackle this crisis, we encourage all states, subdivisions, and Native American Tribes to join us in this agreement to expedite the process of providing these critical resources where they are needed most.

“While our efforts thus far have obtained nearly \$50 billion for communities nationwide, our work is far from finished, and we will continue to work to hold those responsible for this epidemic fully accountable.”

###

Dependent on participation by states and municipalities, the settlement with Teva for up to \$4.25 billion includes \$3.7 billion to be paid out over 13 years after its effective date as well as the option of \$1.2 billion worth of its generic version of the drug Narcan or an agreed upon cash equivalent over 10 years. The settlement with Allergan totaling \$2.37 billion will be paid out over six years after its effective date.



Walmart Announces Nationwide Opioid Settlement Framework

November 15, 2022 07:10 AM Eastern Standard Time

BENTONVILLE, Ark.--(BUSINESS WIRE)--Walmart announced today it has agreed to a \$3.1 billion nationwide opioid settlement framework designed to resolve substantially all opioid lawsuits and potential lawsuits by state, local, and tribal governments, if all conditions are satisfied.

Walmart believes the settlement framework is in the best interest of all parties and will provide significant aid to communities across the country in the fight against the opioid crisis, with aid reaching state and local governments faster than any other nationwide opioid settlement to date, subject to satisfying all settlement requirements.

Walmart is proud of our pharmacists and our efforts to help fight the opioid crisis. Walmart strongly disputes the allegations in these matters, and this settlement framework does not include any admission of liability. Walmart will continue to vigorously defend the company against any lawsuit not resolved through this settlement framework.

About Walmart's Commitment to Opioid Stewardship

Walmart's mission is to help people "live better," and this includes both providing our customers with access to their prescription medications and helping to fight the opioid crisis facing our country. Walmart has adopted many approaches to fighting the opioid crisis, such as:

- Educating and empowering pharmacists
- Reducing the amount of opioids dispensed
- Protecting against diversion and theft
- Increasing access to overdose reversal medication
- Educating our patients and our communities about opioid abuse
- Advocating for state and national policies aimed at curbing opioid abuse and misuse

More information about Walmart's industry-leading Opioid Stewardship program is available at <https://corporate.walmart.com/opioids>.

About Walmart

Walmart Inc. (NYSE: WMT) helps people around the world save money and live better - anytime and anywhere - in retail stores, online, and through their mobile devices. Each week, approximately 230 million customers and members visit more than 10,500 stores and numerous eCommerce websites under 46 banners in 24 countries. With fiscal year 2022 revenue of \$573 billion, Walmart employs approximately 2.3 million associates worldwide. Walmart continues to be a leader in sustainability, corporate philanthropy and employment opportunity. Additional information about Walmart can be found by visiting <https://corporate.walmart.com>, on Facebook at <https://facebook.com/walmart> and on Twitter at <https://twitter.com/walmart>.

Forward-Looking Statements

This release contains statements that may be deemed to be "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Act"), that are intended to enjoy the protection of the safe harbor for forward-looking statements provided by the Act as well as protections afforded by other federal securities laws. Assumptions on which such forward-looking statements are based are also forward-looking statements. Such forward-looking statements can typically be identified by the use therein of words and phrases such as "believe," "continue," "designed to," "to be," "will continue," "will provide," variations of such words or phrases, other phrases commencing with the word "will" or similar words and phrases denoting anticipated or expected occurrences or results. These forward-looking statements are based on our knowledge and assumptions that we believe to be reasonable when such forward-looking statements were or are made. Consequently, this cautionary statement qualifies all forward-looking statements we make, including those made herein and incorporated by reference herein. We cannot assure you that the results or developments expected or anticipated by us will be realized or, even if substantially realized, that those results or developments will result in the expected consequences for us or affect us, our business, our operations or our operating results in the manner or to the extent we expect. We caution readers not to place undue reliance on such forward-looking statements, which speak only as of their dates. We undertake no obligation to revise or update any of the forward-looking statements to reflect subsequent events or circumstances except to the extent required by applicable law.

Contacts

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Investor Contact

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Statement on CVS and Walgreens' agreement in principle

November 2, 2022

*The following is a statement on behalf of the court-appointed leadership and negotiating team in the National Prescription Opiate Litigation MDL: **Jayne Conroy** of Simmons Hanly Conroy; **Paul T. Farrell Jr.** of Farrell & Fuller Law LLC; **Joe Rice** of Motley Rice LLC; **Russell Budd** of Baron & Budd, P.C.; **Elizabeth Cabraser** of Lieff Cabraser Heimann & Bernstein, LLP; **Paul Geller** of Robbins Geller Rudman & Dowd LLP; **Peter Mougey** of Levin Papantonio Rafferty; **Christopher Seeger** of Seeger Weiss LLP; **Hunter Shkolnik** of Napoli Shkolnik PLLC; and **Steven Skikos** of Skikos, Crawford, Skikos & Joseph LLP.*

“These landmark agreements-in-principle reached with CVS and Walgreens on economic terms totaling more than \$10 billion are an important step in our efforts to hold pharmacy defendants accountable for their role in the opioid epidemic that continues to devastate individual lives, as well as entire cities and states. Once effectuated, these agreements will be the first resolutions reached with pharmacy chains and will equip communities across the country with the much-needed tools to fight back against this epidemic and bring about tangible, positive change. In addition to payments totaling billions of dollars, these companies have committed to making significant improvements to their dispensing practices to help reduce addiction moving forward.

“Along with the attorney general working groups with whom we continue to tackle this crisis, we encourage all states, subdivisions, and Native American Tribes to join us once these agreements and allocation processes are finalized to expedite the process of providing these life-saving resources where they are needed most.

“While our efforts thus far have obtained approximately \$25 billion for communities nationwide, our work is far from finished. Alongside community leaders, first responders, and others on the front lines of this crisis, we will continue to work to hold all those responsible for this epidemic fully accountable and obtain some measure of justice for its catastrophic effects.”

Additional background: Dependent on participation by states and municipalities, the agreement-in-principle with Walgreens totaling \$5.7 billion will be paid out over 15 years after its effective date, and the agreement-in-principle with CVS totaling \$5 billion will be paid out over 10 years after its effective date.

###

Thousands of U.S. communities to receive opioid recovery funds from \$26 billion global settlements as soon as May 2022

Over 90% of litigating local governments have confirmed participation in the global settlements approved today by the “Big Three” drug distributors AmerisourceBergen, Cardinal Health, and McKesson, along with opioid manufacturer Johnson & Johnson

Washington, D.C. (February 25, 2022) – Today, the National Prescription Opiate Litigation Plaintiffs’ Executive Committee confirmed participation of over 90% of litigating local governments nationwide in the \$26 billion global opioid settlements finalized with the “Big Three” drug distributors - AmerisourceBergen, Cardinal Health, and McKesson - and opioid manufacturer Johnson & Johnson.

The settlements require 85% of funds be allocated to programs that will help address the ongoing opioid crisis through treatment, education, and prevention efforts. A majority of states have already passed agreements that dictate how funds will be distributed between state and local subdivision governments, ensuring funds will effectively reach communities in the coming months.

The settlement was made possible in part by the years of advocacy by the entire Plaintiffs’ Executive Committee (PEC) on behalf of their more than 3,300 community clients. This team of lawyers worked for over four years to position these cases for this unprecedented resolution and cultivated collaborative working relationships with the State Attorneys General. The Plaintiffs’ Executive Committee continues to work actively with all parties to address the unique needs of the few states and communities that have yet to sign onto the agreements. The settlements currently have 100% participation from litigating local governments in nearly forty states.

Statement from PEC negotiation team of Elizabeth Cabraser of Lieff Cabraser, Jayne Conroy of Simmons Hanly Conroy, Paul Geller of Robbins Geller, Peter Mougey of Levin Papantonio Rafferty, Joe Rice of Motley Rice LLC, Jennifer Scullion of Seeger Weiss, and Chris Seeger of Seeger Weiss:

“We arrived at this moment after years of work by community leaders across the country who committed themselves to seeking funds they need to combat the opioid epidemic. We must also recognize the efforts of the many attorneys general and private counsel who have relentlessly pursued long overdue opioid epidemic recovery resources on behalf of their constituents and clients. The bottom line from this news is that help is on the way for first responders and healthcare workers on the front lines of this public health crisis. While nothing can truly make whole what was lost in this country, what we can do is ensure that thousands of communities nationwide have the tools they need to prevent the opioid epidemic from taking more lives. We hope this agreement does exactly that. It is also important to remember that while this is a vital step, it is only one of the many that are necessary to put an end to this crisis.

We will continue our work at the negotiation table and in court during the trials ahead to hold companies in the opioid supply chain accountable.”

The settlement is the first of its kind to administer resources directly to the state and local governments specifically for relief programs to help rebuild the devastation caused by the opioid epidemic. The settlement will distribute funds based on population adjusted for the proportionate share of the opioid epidemic impact. The share of the impact is calculated using detailed, and objective national data, including the amount of opioids shipped to the state, the number of opioid-related deaths that occurred in the state and the number of people who suffer opioid use disorder in the state.

Initial deposits were put into escrow in 2021 and the first round of funding for many programs could be delivered as soon as May 2022 following a consent judgment within each participating state. Additional funds are expected to be received by July 2022. The settlement also calls for injunctive relief that requires the “Big Three” drug distributors and Johnson & Johnson to make significant changes to corporate practices to protect consumer health and welfare.

Litigation continues in state and federal courts around the country against other companies in the opioid supply chain. This settlement follows the jury verdict from November 23, 2021 in the federal trial in Ohio that found CVS, Walgreens, and Walmart liable for fueling the opioid crisis in Lake County and Trumbull County of Ohio. A judge will determine the value of the opioid epidemic abatement funds owed by pharmacy chains to these communities in May 2022. A bench trial decision is pending in West Virginia federal court where Cabell County and the City of Huntington brought a case against the “Big Three” distributors. Both the Ohio and West Virginia trials are part of the federal opioid litigation, which involves more than 3,300 communities across the United States holding drug manufacturers, distributors, and pharmacy chains accountable amid the ongoing and worsening opioid epidemic. The federal trial involving the City of San Francisco against pharmacy chain defendants will begin on April 25, 2022. In a case conducted jointly by PEC firms and the Attorney General of New York, manufacturer Teva and distributor Anda were found liable by a jury on December 30, 2021.

Updated information about these settlements are available at the Plaintiffs’ Executive Committee negotiation team’s website: www.nationalopioidsettlement.com.

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