

NewsOK

Oklahoma's opioid suit clears hurdle, moves forward

By [Randy Ellis](#) | December 5, 2017

NORMAN — A lawsuit filed by the state that accuses pharmaceutical companies of causing Oklahoma's opioid epidemic by fraudulently marketing their painkilling drugs will be allowed to move forward, a Cleveland County judge ruled Tuesday.

"It's not a ticking time bomb. It's a bomb that's already exploded," said Bradley Beckworth, one of the attorneys representing the state.

Cleveland County District Judge Thad Balkman has not yet set a trial date, but attorneys for the state said they would like the trial to begin in May 2019.

The state expects to ask for billions of dollars in damages, said Michael Burrage, who is also representing the state.

Oklahoma Attorney General Mike Hunter filed the lawsuit against 13 opioid manufacturers, affiliates and successor companies in June — accusing them of engaging in massive marketing efforts that fraudulently misrepresented the addictive risks of their drugs in an effort to pump up their multibillion-dollar profits.

"They lied in their marketing," said Reggie Whitten, another attorney who is assisting the state.

The results have been devastating, he said.

"More Americans died from opioid overdose in 2016 alone than in the entire Vietnam War," Whitten said. "The bodies, sadly, will continue to pile up."

"Defendants created the worst public health crisis in modern history. Families destroyed," state attorneys claimed in a court filing. "Children killed. Babies addicted. Morgues overflowing. Prisons full."

Purdue Pharma Inc., Johnson & Johnson and Teva Pharmaceuticals USA Inc. are among the

drug manufacturers named in the lawsuit.

The drug companies had sought dismissal of the court action, contending that the addictive risks of the opioids they manufacture were clearly described in labels required by the federal Food and Drug Administration.

"The state's claims against Purdue are pre-empted by federal law because they would require Purdue to make statements about the safety and efficacy of its medications that are different from what the Food and Drug Administration has approved," Purdue attorneys argued in one court filing.

Purdue attorneys also accused state attorneys of painting all the opioid manufacturers with a broad brush and failing to provide specific information that would allow them to properly defend themselves against the fraud allegations.

State attorneys, however, argued that the drug companies deliberately tried to downplay the addictive properties of their drugs.

"Defendants hired and paid physicians ... to act as 'key opinion leaders,'" attorneys for the state alleged.

These key opinion leaders "spoke at medical education seminars, spoke in the media, and published articles pushing more opioids and downplaying (if not altogether denying) the risk of addiction," the state's attorneys said. "Defendants created and/or funded third-party pain advocacy front groups — such as the American Pain Foundation and the American Pain Society — to disseminate their message that opioids are not addictive and should be prescribed liberally."

The pharmaceutical manufacturers did win one small victory Tuesday when Judge Balkman dismissed a relatively minor portion of the state's lawsuit alleging the drug companies had violated the Oklahoma Consumer Protection Act.

The state can continue to pursue its claims that the drug companies violated the Oklahoma Medicaid False Claims and Oklahoma Medicaid Program Integrity Acts, created a public nuisance, committed fraud and were unjustly enriched at the expense of the state, the judge ruled.