

Attorney general wins first round against drugmakers

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Attorney General Mike Hunter speaks during a roundtable discussion on the prescription drug epidemic affecting Oklahoma, in Oklahoma City. (File photo by Brent Fuchs)

NORMAN – Attorney General Mike Hunter can pursue most of his claims against 13 drugmakers, a Cleveland County district judge ruled Tuesday.

Judge Thad Balkman said as the hearing began that he was inclined to deny the defendants' motion to dismiss, but wanted to hear their arguments first. Several attorneys spent nearly four hours arguing their claims.

Hunter filed a lawsuit on June 30 against 13 pharmaceutical manufacturers and their affiliates. He alleged the drugmakers deceived doctors on potential risks for non-cancer patients using opioids for chronic pain relief. The defendants include: OxyContin maker Purdue Pharma LP,

Purdue Pharma Inc., Purdue Frederick Co., Teva Pharmaceuticals USA Inc., Cephalon Inc., Johnson & Johnson, Janssen Pharmaceuticals Inc., Ortho McNeil Janssen Pharmaceuticals Inc., Janssen Pharmaceutica Inc., Allergan PLC, Actavis PLC, Watson Laboratories Inc., Watson Pharmaceuticals Inc., Actavis LLC, Actavis Pharma Inc., and Watson Pharma Inc.

Hunter asked for financial damages to cover the cost of reimbursing the state for paying for opioids for state-run insurance programs, as well as seeking relief for the social damages and criminal justice issues related to opioid and heroin addiction.

He also raised a consumer protection claim in the petition, which Balkman dismissed Tuesday.

Two attorneys for the plaintiff argued the pharmaceutical companies created a vast, decades-long conspiracy to mislead and defraud physicians about opioid prescription dangers.

It began with an aggressive marketing campaign in 1996, said Bradley Beckworth, an attorney for the plaintiff. Some of the families who started drug companies funded trade groups that published a book touting the benefits of using opioids for non-cancer patients who experience chronic pain, he said. State medical boards later adopted that book as a recommendation, which helped to spread the information, he said.

"This was a pervasive, systemic conspiracy campaign," he said, "contrary to what (the FDA approved)."

Attorneys for the drugmakers argued they followed the U.S. Food and Drug Administration's requirements for labeling drugs and for its promotion and marketing related to those drugs. Purdue attorney Mark Cheffo said that if the FDA allows drug companies to do those things, the pharmaceutical companies shouldn't be liable for it.

Defense attorneys representing several drugmakers said Balkman should dismiss Hunter's petition because his claims were pre-empted by federal law and that the complaint didn't specify which doctors were defrauded, when they were defrauded, or how exactly they were exposed to false statements that led those doctors to prescribe those drugs.

The defendants also argued that the state can't make a causation claim either because physicians are independent, are legally required to understand the risks of medications and to tell patients about those risks, and make educated decisions as to whether those risks outweigh the benefits for individual patients.

Several other states' attorneys general have also sued pharmaceutical companies, including Kentucky, Missouri and Ohio.