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Subject: NH AG NEWS RELEASE: Attorney General Reaches \$40.5 Million Settlement with Johnson & Johnson To Settle Opioid Claims

NEWS RELEASE

Released by: John M. Formella, Attorney General

Subject: Attorney General Reaches \$40.5 Million Settlement with Johnson & Johnson To Settle Opioid Claims

Date: September 1, 2022

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CONCORD, NH – Attorney General John M. Formella announces a settlement with Janssen Pharmaceuticals/Johnson & Johnson to settle the state’s opioid claims against the company. The company has agreed to pay \$40.5 million, of which \$31.5 million will be used for opioid abatement purposes.

"As part of our continued efforts to battle the opioid epidemic, New Hampshire is a leader in ensuring that the companies who played a role in perpetuating this crisis are held accountable for their actions," said Governor Chris Sununu. "This resolution provides a positive step forward in ensuring these devastating business practices are not repeated, and that resources are allocated to help stem the tide of the opioid crisis. I thank the Department of Justice for their work on this case."

In 2018, the Attorney General filed a complaint against Janssen Pharmaceuticals and Ortho-McNeil-Janssen Pharmaceuticals. Both companies are wholly owned subsidiaries of Johnson & Johnson. In its complaint, the State alleged that Johnson & Johnson aggressively marketed their opioids to prescribers and patients in New Hampshire and misrepresented that their opioids were safer than other alternatives. It was further alleged that they disseminated misleading statements about opioids, that they promoted the false concept of pseudoaddiction and that they misrepresented that their opioids were rarely addictive when used for chronic pain. The State alleged that Johnson & Johnson’s marketing targeted particularly vulnerable populations within New Hampshire, such as the elderly, even though opioid use among the elderly carries a heightened risk of overdose, injury and death.

The State further alleged that Johnson & Johnson's opioid activities were a substantial factor in creating a public nuisance in New Hampshire that contributed to the opioid crisis, a crisis that continues to have devastating consequences to the lives, health and safety of the citizens of the State.

"New Hampshire has been devastated by the opioid crisis, and we continue to deal with the impacts of that crisis today," said Attorney General John Formella. "Today's settlement continues our efforts to hold opioid companies accountable for their role in creating this epidemic, and this settlement represents another successful push to get more resources for New Hampshire to align with the disproportionate impact that this crisis has had on our State. I thank Deputy Attorney General James Boffetti for leading our efforts in this case, and all those who assisted the State in this effort."

The State's trial against Johnson & Johnson was scheduled to begin on September 7, 2022 in Merrimack County Superior Court.

The State decided not to join an earlier national settlement with Johnson & Johnson because the opioid crisis in New Hampshire was particularly severe and also because New Hampshire had already devoted significant litigation resources at the time the national settlement was announced. The terms of the national settlement were significantly less favorable to New Hampshire as compared to the settlement the Attorney General is announcing today, which will result in millions of additional abatement funds coming to the state. Those funds will be paid in full in one payment, rather than over 9 years under the national settlement.

Under the terms of the settlement agreement, Johnson & Johnson will make a single payment of \$39.605 million to the State and pay approximately \$900,000 in attorneys' fees to counsel for the counties, cities and towns that filed opioid lawsuits against Johnson & Johnson prior to September 1, 2019. The State will receive \$31.5 million, after payment of litigation costs and fees to its outside counsel. Under state law, all of the \$31.5 million must be used for opioid abatement purposes, with \$4,725,000 of that amount being paid to the 23 counties, cities and towns that filed opioid law suits prior to September 1, 2019.^[1] The balance of the funds will be deposited into the Opioid Abatement Trust Fund and used in accordance with RSA 126-A:83-86. The settlement requires releases by the 23 litigating subdivisions and 18 primary non-litigating cities and towns for the agreement to be final.

The settlement also contains injunctive terms that imposes on Johnson & Johnson a ban on the selling and manufacturing of opioids, a ban on the promotion of opioids or opioid products and a ban on prescription savings programs, as well as lobbying restrictions, and contains stringent enforcement provisions.

[1] The 23 subdivisions include all 10 counties plus Belmont, Berlin, Claremont, Concord, Derry, Dover, Franklin, Keene, Laconia, Londonderry, Manchester, Nashua and Rochester.

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