

**Letitia James**

New York State Attorney General

## **Attorney General James Reaches \$1.1 Billion Agreement with Big Three Distributors to Treat and Prevent Opioid Use in NYS**

### **July 20, 2021**

*AG James Has Now Reached Agreements That Could Bring More Than \$1.6 Billion from Opioid Manufacturers, Distributors, and Consultants to NYS*

*Trial Against Remaining Three Opioid Manufacturers Continues in State Court*

NEW YORK – New York Attorney General Letitia James today announced an [agreement with McKesson Corporation, Cardinal Health Inc., and Amerisource Bergen Drug Corporation](#) — three of the nation’s largest drug distributors — that will deliver up to \$1.1 billion to New York state to combat the ongoing opioid epidemic. The \$1.1 billion agreement is the largest monetary settlement ever negotiated by Attorney General James. The agreement resolves claims made by Attorney General James for the three companies’ role in helping to fuel the opioid epidemic and will remove the three distributors from New York’s ongoing opioid trial, currently underway in Suffolk County State Supreme Court.

“For more than two decades, the opioid epidemic has wreaked havoc on countless communities throughout New York and across the rest of the nation, killing hundreds of thousands of our friends and family members and addicting millions more,” said **Attorney General James**. “And over the course of these past two decades, McKesson, Cardinal Health, and Amerisource Bergen distributed these opioids without regard to the national crisis they were helping to fuel. But today, we’re holding them accountable and delivering more than \$1 billion more into New York communities ravaged by opioids for treatment, recovery, and prevention efforts — bringing the statewide total our office has negotiated in the last month alone to more than \$1.6 billion. While no amount of money will ever compensate for the millions of addictions, the hundreds of thousands of deaths,

or the countless communities decimated by opioids, this money will be vital in preventing any future devastation.”

In March 2019, [Attorney General James filed the nation’s most extensive lawsuit to hold accountable the various manufacturers and distributors responsible for the opioid epidemic](#). The manufacturers named in the complaint included Purdue Pharma and its affiliates, as well as members of the Sackler Family (owners of Purdue) and trusts they control; Janssen Pharmaceuticals and its affiliates (including its parent company Johnson & Johnson); Mallinckrodt LLC and its affiliates; Endo Health Solutions and its affiliates; Teva Pharmaceuticals USA, Inc. and its affiliates; and Allergan Finance, LLC and its affiliates. The distributors named in the complaint were McKesson Corporation, Cardinal Health Inc., Amerisource Bergen Drug Corporation, and Rochester Drug Cooperative Inc.

The cases against Mallinckrodt and Rochester Drug Cooperative are now moving separately through U.S. Bankruptcy Court. The case against Purdue and the Sacklers is also moving through U.S. Bankruptcy Court, but, earlier this month, [Attorney General James and a majority of states announced their approval of an agreement that would force the Sacklers and entities they control to pay more than \\$4.5 billion for opioid abatement, as well as shut down Purdue, and ban the Sacklers from ever selling opioids again](#). The agreement is pending court approval.

Additionally, late last month, [Attorney General James announced an agreement with Johnson & Johnson that removed the company from New York’s opioid trial in exchange for up to \\$230 million for the state’s opioid prevention and treatment efforts, as well as it ending the sale of opioids nationwide](#).

The trial against the three remaining defendants — Endo Health Solutions, Teva Pharmaceuticals USA, and Allergan Finance — is currently underway and will continue in state court.

### **Largest Monetary Recovery in Attorney General James’ Tenure**

As part of today’s agreement, McKesson, Cardinal Health, and Amerisource Bergen will pay New York state a total of up to \$1,179,251,066.68, of which more than \$1 billion will go towards abatement. Payments will start in just two months and will continue over the course of the next 17 years.

The majority of the \$1.1 billion payment will be a guaranteed, base payment, with the remaining funds earmarked as incentive payments to be paid if New York maximally bars, resolves, or releases current and future subdivision litigation. Put simply, the greater the level of participation from political subdivisions across New York state, the more funds that ultimately will be paid out for abatement to the state and to local communities over the course of the 18 total years. More specifically, today's agreement ensures the vast majority of funds will be allocated and tracked at a regional level to communities across the state that have been most hard hit by the opioid epidemic.

Part of today's payment includes New York's share of a national pot that will be provided to states that did not hire outside counsel. Like most other funds announced today, these funds will be used for abatement purposes and will not go toward the state's general fund. Finally, any national fund created to compensate private practice attorneys for lawyers' fees will also be used to pay private attorneys used by New York's political subdivisions, ensuring the more than \$1 billion being announced today for opioid abatement will not be allocated to anything else.

### **National Coordination of Data on Opioid Distribution**

In addition to negotiating the largest monetary settlement since she took office, Attorney General James — in the context of an anticipated upcoming national settlement — negotiated for a change in the way information about opioid orders is collected and employed nationwide. Pursuant to that agreement, McKesson, Cardinal Health, and Amerisource Bergen will implement a new process for collecting and analyzing data about opioid orders received by the other companies through the creation of a groundbreaking clearinghouse, operating under the oversight of an independent third-party monitor. Specifically, this clearinghouse will pool data from the three distributors in order to allow consistent and aggregated data analysis — giving each distributor the ability to account for their own opioid shipments, while simultaneously accounting for the shipments of the other distributors. Additionally, the clearinghouse will use the distributors' collective data to establish pharmacy-specific opioid shipment limits that each distributor must follow.

This system will enable, for the first time, a truer picture of overall opioids distribution across the nation and will require drug distributors to alter their shipments based on the shipments of other distributors.

Today's agreement would additionally resolve lawsuits against McKesson, Cardinal Health, and Amerisource Bergen by Nassau and Suffolk counties if the county legislatures approve the agreement next month. In the meantime, Attorney General James plans to make a motion to remove the three distributors from New York's ongoing opioid trial today in state court.

Today's agreement was negotiated in coordination with a larger global settlement that remains ongoing, but that could possibly end litigation by thousands of additional entities, including all litigation pending by state attorneys general around the nation. While a global agreement still remains under negotiation, if an agreement is reached before July 1, 2022, New York will join that settlement and the terms of today's agreement will be folded into that settlement.

Separately, but related to her work on opioids, this past February, [Attorney General James co-led a coalition of nearly every attorney general in the nation in delivering more than \\$573 million — more than \\$32 million of which was earmarked for New York state — toward opioid treatment and abatement in an agreement and consent judgment with McKinsey & Company](#). The agreement with one of the world's largest consulting firms resolved investigations by the attorneys general into the company's role in working for opioid companies, helping those companies promote their drugs, and profiting millions of dollars from the opioid epidemic.

Attorney General James is especially grateful for the close cooperation of a number of state attorneys general and their staffs in the negotiation of today's agreement, and for their ongoing partnership in the unfinished work of delivering justice and meaningful relief to those impacted by the opioid epidemic in New York and nationwide.

For the Office of the New York Attorney General, this negotiation was led by First Deputy Attorney General Jennifer Levy and Senior Advisor and Special Counsel M. Umair Khan.

The OAG's pre-litigation investigation of McKesson, Cardinal Health, and Amerisource Bergen was conducted by Assistant Attorneys General Noah Popp, Conor Duffy, Diane Johnston, Jeremy Pfetsch, and Jennifer Simcovitch, under the direction of Senior Enforcement Counsel John Oleske and Special Counsel Sara Haviva Mark. The OAG's trial team for the enforcement action against the opioid distributors and manufacturers named in the complaint is being led by Senior Enforcement Counsel John Oleske and Assistant Attorney General Monica Hanna, and includes: Assistant Attorneys General

Conor Duffy, Carol Hunt, Diane Johnston, Leo O'Toole, Jeremy Pfetsch, Michael Reisman, Lois Saldana, and Jennifer Simcovitch; Project Attorneys Wil Handley, Stephanie Torre, and Eve Woodin; Paralegal Ketty Dautruche; and Legal Assistant David Payne. Data analytics and presentation support is being provided by Senior Data Analyst Akram Hasanov, Data Analyst Anushua Choudhury, Data Scientists Chansoo Song and Gautam Sisodia, former Data Scientist Katie Rosman, and current and former Research and Analytics interns — all under the supervision of Director of Research and Analytics Jonathan Werberg and Deputy Director Megan Thorsfeldt. Litigation support is being provided by Information Technology Specialists Hewson Chen and Paige Podolny and E-Discovery Document Review Specialist Kristin Petrella. Trial strategy consultation is being provided by Senior Advisor and Special Counsel M. Umair Khan and Investor Protection Bureau Chief Peter Pope. Special thanks are extended to former Counsel for Opioids and Impact Litigation David Nachman and former Special Counsels Elizabeth Chesler and Mandy DeRoche for their indispensable leadership during the pre-trial stages of this proceeding. The OAG's civil enforcement actions are all conducted under the supervision of First Deputy Attorney General Jennifer Levy.