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# All Pa. Counties Join \$26B Opioid Deal Over DAs' Objections

By **Matthew Santoni**

Law360 (January 27, 2022, 4:41 PM EST) -- All 67 Pennsylvania counties have signed on to a \$26 billion, multistate settlement with three distributors and one manufacturer of opioid drugs, the state's attorney general's office announced Thursday, despite the district attorneys of its two largest counties opposing the deal.

The deal with AmerisourceBergen Corp., Cardinal Health Inc., McKesson Corp. and Johnson & Johnson could bring more than \$1 billion to Pennsylvania over 10 years, but it depends on enough counties and communities agreeing to participate.

Attorney General Josh Shapiro's office announced Thursday morning that as of Wednesday's deadline, all 67 counties in the Keystone State, along with 241 local governments with populations of more than 10,000, had signed onto the deal.

"With this landmark support, Pennsylvania is on track to receive the full \$1.07 billion, with funding beginning to flow into our communities as early as April to jumpstart programs and ramp up staffing to save the lives of those struggling with opioid addiction," Shapiro said in a statement Thursday. "This agreement marks the most significant influx of resources to our commonwealth to address this epidemic, jet-fueled by greedy pharmaceutical companies."

But **Philadelphia District Attorney** Larry Krasner and **Allegheny County District Attorney** Stephen Zappala Jr. had filed lawsuits in the Pennsylvania Commonwealth Court over the proposed settlement, claiming it improperly released claims they were making against the same companies in separate lawsuits consolidated and currently pending in Delaware County.

In a joint statement, they pledged to continue fighting the opioid companies and indicated they would still fight the settlement.

"Allegheny County and Philadelphia deserve deep, sustained compensation in the form of billions of dollars from these companies, which regularly exploit all manner of corporate loopholes while refusing to take any real responsibility for the devastation they have unleashed in communities," the statement said. "Our offices are not alone in the fight for consequential accountability from Big Opioids, either: states including Alabama, New Hampshire, Oklahoma, Washington, and West Virginia are also refusing to settle for anything less than what their residents deserve."

Shapiro joined six other state attorneys general to **announce the settlement** in July 2021. But the deal depended on enough states, counties and municipalities buying in; if they didn't, the drug companies could walk away.

Under the deal, 15% of Pennsylvania's settlement money will go to the state government, 15% to the counties and municipalities that had previously brought lawsuits, and the remaining 70% will be distributed among counties and municipalities regardless of whether they had sued, the attorney general's office said in a December 2021 briefing.

The district attorneys had claimed the settlement undervalued their claims, particularly once the settlement money filtered down to the cities. Krasner's suit said Philadelphia would only get \$5 million to \$8 million, compared to hundreds of millions if it prevailed in its suits under Pennsylvania's Unfair Trade Practices and Consumer Protection Law.

Krasner and Zappala claimed Shapiro didn't have the authority to settle with the opioid companies on the counties' behalf, and had cut the legs out from their suits by releasing the companies in the deal.

"Just about every block in our counties has been touched by this crisis," their joint statement said. "An Allegheny County judge should decide how much is owed by these corporate giants. A Philadelphia judge should decide how much is owed to Philadelphia residents, and local service providers and harm reduction specialists should help decide how those dollars are spent to begin repairing the decades of harm done to Kensington and all affected communities."

Part of the arguments Shapiro and the drug companies **made against** the district attorneys' request to block the settlement was that their claims were unripe since it was unclear at the time if enough Pennsylvania counties and municipalities would sign on.

That argument appeared to have been resolved with Thursday's announcement, but the drug companies' contention that the district attorneys' suits had nothing to do with them, or the attorney general's argument that the district attorneys **lacked authority** to speak for the citizens of the entire state, were still under consideration by the Commonwealth Court after **arguments in December 2021**.

Representatives of the attorney general's office did not immediately respond to requests for comment on the district attorneys' lawsuits.

Krasner's office is represented by Jerry DeSiderato, Silvio Trentalange and Timothy James Ford of Dilworth Paxson LLP, Andrew Sacks and John Weston of Sacks Weston LLC, Gregory Heller of McLaughlin & Lauricella PC, Stephen Sheller of Sheller PC, David Kairys of the Temple University's Beasley School of Law, and Catherine Hancock Dorsey and Jennifer F. Connolly of Baron & Budd PC.

Zappala's office is represented by Jerry R. DeSiderato of Dilworth Paxson LLP, and William G. Brucker, Charles J. Porter and Joseph G. Heminger of Brucker & Porter.

The attorney general's office is represented in-house by Stephen R. Kovatis, James A. Donohue III, Keli M. Neary, Neal F. Mara and Karen M. Romano.

The cases are the Commonwealth of Pennsylvania et al. v. the Attorney General of Pennsylvania, case numbers 233 MD 2021, 250 MD 2021, 260 MD 2021 and 261 MD 2021, in the Commonwealth Court of Pennsylvania.

--Editing by Lakshna Mehta.