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Philly DA Slams Opioid Settlement As A Sellout For City

By **Matt Fair**

Law360 (July 22, 2021, 6:24 PM EDT) -- Philadelphia's district attorney accused the state's top prosecutor Thursday of selling out the city's interest in pursuing its own claims against opioid manufacturers and distributors in favor of a \$26 billion settlement announced a day earlier.

District Attorney Larry Krasner said that the **settlement announced Wednesday** by Pennsylvania Attorney General Josh Shapiro and six other state attorneys general improperly sought to release three of the nation's largest drug distributors, as well as drug manufacturer Johnson & Johnson, from potential claims by the city while also undervaluing what he believed the city could get by taking its case to trial.

"We are not going to accept a settlement that is a sellout," Krasner said at a press conference outside Philadelphia City Hall. "I got a real problem when other people want to come into Philly and take away our rights to conduct lawsuits in the way we think they should be done to protect our people."

Krasner's office filed suit under the state's Unfair Trade Practices and Consumer Protection Law in February 2018, accusing nearly a dozen opioid manufacturers of fueling a surge in addiction through their deceptive marketing of opioids as a safe and effective way of treating chronic pain.

The complaint was eventually amended to add drug distributors including McKesson Corp., AmerisourceBergen Corp. and Cardinal Health Inc.

The suit was later lumped into a litigation program spearheaded out of the Delaware County Court of Common Pleas to deal with similar lawsuits filed by county and local governments across the state and was greenlighted as a bellwether case.

In announcing a deal to settle claims as to the distributors and J&J on a statewide basis Wednesday, however, Krasner said that Shapiro had cut local officials off at the knees as they look to litigate their own claims.

And that, Krasner said in his lawsuit on Thursday, Shapiro couldn't do.

"The attorney general's settlement improperly seeks to release plaintiff's statutorily authorized claims," Krasner said in a complaint filed in Pennsylvania Commonwealth Court. "Plaintiff brings this action to request a ruling that the attorney general lacks the authority to do so."

At his press conference Thursday, Krasner said that the deal would result in Philadelphia only seeing between \$5 million and \$8 million on claims he said could potentially be worth hundreds of millions if the case were allowed to go to trial.

"I've got to be missing something here, because that doesn't sound so good," Krasner said.

By way of comparison, he pointed specifically to the \$260 million deal two Ohio counties struck with Cardinal, McKesson, AmerisourceBergen and Teva Pharmaceutical Industries Ltd. in October 2019 on the eve of trial on claims over the companies' alleged roles in the opioid epidemic.

Shapiro's office did not immediately return a message seeking comment Thursday afternoon.

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; and Lauren Alexandra Sheller Insana of Kang Haggerty & Fetbroyt LLC.

Counsel information for the attorney general's office was not immediately available.

The case is Commonwealth of Pennsylvania v. the Attorney General of the Commonwealth of Pennsylvania, case number 233 MD 2021, before the Pennsylvania Commonwealth Court.

--Editing by Andrew Cohen.

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