

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

December 21, 2021

HONORABLE CITY COUNCIL
Oakland, California

Subject: *People of the State of California, et al. v. Purdue Pharma L.P., et al.*
Orange County Superior Court Case No. 30-2014-00725287-CU-BT-CXC

and

In re: National Prescription Opiate Litigation
MDL Master Docket No. 1:17-MD-2804
(Office of the City Attorney – Public Nuisance, False Advertising, Unfair Competition)

President Fortunato Bas and Members of the City Council:

Pursuant to Section 401 of the Charter, the City Attorney has prepared and requests your approval of a resolution authorizing the City Attorney to release the City’s potential claims against Cardinal Health, Inc., AmerisourceBergen Corporation, and McKesson Corporation (the “Distributors”) and against Johnson & Johnson (a.k.a. Janssen) Pharmaceuticals in exchange for full participation in the national settlements with those defendants (Distributor Settlement Agreement, Johnson & Johnson Settlement Agreement).

The opportunity to join these settlements as litigating entities arose due to litigation the City Attorney joined some years ago. In May 2014, the Santa Clara County Counsel’s Office and the Orange County District Attorney’s Office filed the first lawsuit in the nation brought by government entities against major opioid manufacturers (“Manufacturers”) for the companies’ roles in creating and perpetuating the opioid crisis. In 2018, Oakland and Los Angeles County, in the name of the People of the State of California, joined that lawsuit. The lawsuit was and is distinct from the settlements before the Council, but the City Attorney’s participation in that lawsuit has put the City of Oakland in its current position to authorize the City Attorney to accept the terms of either or both of the national opioid settlements as a “litigating entity.”

President Fortunato Bas and Members of the City Council

December 21, 2021

Subject: People of the State of California, et al. v. Purdue Pharma L.P., et al. and In re: National Prescription Opiate Litigation

Page 2

The national Distributor Settlement Agreement and the national Johnson & Johnson Settlement Agreement arose from federal litigation by innumerable state and local governments across the country, challenging the conduct of a wide variety of opioid industry actors for the roles they played in the opioid crisis. Those cases were consolidated years ago into a single “Multi-District Litigation” (“MDL”) proceeding, and these settlements would resolve all relevant claims in the MDL 2804.

Both settlements are structured in a “tiered” fashion: each state must decide to participate, and once it does, its local subdivisions (e.g., counties, cities) decide whether to participate. California has decided to participate in both. Local participation is then subject to a “State Allocation Agreement,” or a division of settlement funds between the state and its local governments. To participate in the *national* agreement, a local government in California must also participate in the *State* Allocation Agreement. Because the Oakland City Attorney sued opioid defendants, Oakland is eligible to participate in both settlements as a “litigating entity” and to therefore receive the maximum settlement amounts available to the city under both agreements. Local governments have until January 2, 2022 to release their claims and join either or both settlements.

The City Council authorized settlement of this case in Closed Session on Thursday, December 16, 2021 (moved by Councilmember Carroll Fife and seconded by Councilmember Dan Kalb - 8 Ayes).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Barbara Parker', written in a cursive style.

BARBARA PARKER
City Attorney

Assigned Attorney
Zoe Savitsky

3133120v1