

Bloomberg Law: J&J, Distributor Deal Sets Stage for Next Opioid Legal Frontier

[Bloomberg Law](#) interviews Managing Partner, [Harry Nelson](#), regarding the J&J Distributor Deal that is the stage for Next Opioid Legal Frontier

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Johnson & Johnson and three opioid distributors' \$26 billion deal to resolve thousands of lawsuits over their role in the addiction crisis shifts the focus to major pharmacies while setting a roadmap for future settlements, attorneys say.

McKesson Corp., Cardinal Health Inc., and AmerisourceBergen Corp. agreed to pay around \$21 billion to resolve allegations they looked the other way on opioid shipments, state attorneys general involved in the multifaceted litigation said Wednesday. J&J will pay \$5 billion to fend off claims it illegally marketed opioids.

J&J and the distributors may see an end in sight, but companies like Rite Aid and Walgreens—who also face litigation over opioid distribution—are left in the crosshairs.

"It basically leaves them more exposed, because all of these plaintiffs attorneys who have been bringing claims against the distributors are going to be looking to finish the job, and looking for new sources of liability," David Noll, a Rutgers law professor who focuses on complex litigation, said.

More than 40 states are expected to sign on to the deal. But it remains to be seen which states will accept it while others vent outward with lawsuits against the companies.

"It's hard to let a trial go," said James Boffetti, New Hampshire's associate attorney general who is leading the state's opioid litigation. State leaders "are going to have to make their own judgments based on what they think is in the best interest of their individual states."

How to Resolve

The settlement may also offer a glimpse into the future of opioid cases.

"We haven't seen historically, in previous drug litigation, major action against the distributors," said Harry Nelson, founding partner at life sciences firm Nelson Hardiman LLP.

Distributors are "just middlemen in the system," he said.

"This case is one of the first times they're facing such a substantial exposure, and it's been a big question of how they were going to resolve it," Nelson said. And the settlement value is "a substantial contribution" for companies that were "only responsible for not minding the store when distributing to particular pharmacies."

For pharmacies embroiled in the opioid legal saga, \$26 billion would be a significant price tag.

"The pharmacies are big rich companies that don't have a bankruptcy exit," Noll said, adding that they're "going to be the next major point of contention."

Future Deals

Any ultimate settlement amount is contingent on how many states sign on to a settlement, attorneys say.



States that don't sign on can continue on with legal actions, along with government entities, tribes, and those representing babies born with neonatal abstinence syndrome, or drug dependence, said Jennifer Oliva, a law professor at Seton Hall who focuses on health policy.

The defendants "desperately want a global settlement," Oliva said. "They want folks who have not sued to take this deal."

What impact a settlement may have on ongoing and future suits may be difficult to tell because companies "always settle," she said. Still, a final settlement "can give other defendants some kind of concept of, this is what the plaintiffs will take."

"Getting to a number really helps, especially for the defendants," Oliva said.