

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA STATE OF CALIFORNIA**

RESOLUTION NO. 21-234

**IN THE MATTER AUTHORIZING PARTIAL
SETTLEMENT OF THE LAWSUIT FILED ON
BEHALF OF THE COUNTY OF SANTA
BARBARA AND THE PEOPLE OF
CALIFORNIA AGAINST PRESCRIPTION
OPIOID DISTRIBUTORS AND
MANUFACTURERS, ACCEPTANCE OF
FUNDS THROUGH THE CALIFORNIA
STATE ALLOCATION AGREEMENT, AND
EXECUTION OF BACKSTOP
AGREEMENTS WITH OUTSIDE COUNSEL**

WHEREAS, on December 11, 2018, the Santa Barbra County Board of Supervisors (Board of Supervisors) approved and authorized the Office of County Counsel to initiate litigation against distributors and manufacturers of prescription opioids, to recover the County's damages from opioid drug misuse caused by the deceptive marketing and sale of prescription opioids, and to obtain other remedies to mitigate this issue going forward;

WHEREAS, on January 8, 2019, the Board of Supervisors approved and authorized the contingent-fee outside counsel agreement with the law firm of Keller Rohrback, L.L.P. to assist with this litigation;

WHEREAS, on February 15, 2019, the Office of County Counsel with the assistance of Keller Rohrback filed litigation on behalf of the County and in the name of the People of California in the United States District Court for the Central District of California, which was consolidated into the nationwide Multi-District Litigation in the United States District Court for the Northern District of Ohio (Case No. 1:17-MD-2804). Defendants in the lawsuit include Purdue Pharma, L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals, Inc.; Janssen Pharmaceuticals, Inc.; Johnson & Johnson; Teva Pharmaceuticals Industries, Ltd.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Allergan PLC f/k/a Actavis PLC; Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.; Watson Laboratories, Inc.; Actavis LLC; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; Mallinckrodt plc; Mallinckrodt, LLC; SpecGX LLC; Cardinal Health, Inc.; McKesson Corporation; AmerisourceBergen Drug Corporation; Par Pharmaceutical Companies, Inc.; Par Pharmaceutical, Inc.; Mylan Pharmaceuticals, Inc.; West-Ward Pharmaceutical Corp.; Hikma Pharmaceuticals PLC; Walgreens Boots Alliance Inc. a/k/a Walgreen Co; Thrifty Payless, Inc.; Rite Aid Corporation; Richard S. Sackler; Jonathan D. Sackler; Mortimer D.A. Sackler; Kathe A. Sackler; Ilene Sackler Lefcourt; Beverly Sackler; Theresa Sackler; David A. Sackler; Trust for the Benefit of Members of the Raymond Sackler Family; Rhodes Pharmaceuticals L.P.; Rhodes Technologies Inc.; Rhodes Pharmaceuticals Inc.; Rhodes Technologies; Walmart, Inc.; CVS Health Corporation; CVS Pharmacy Inc.; and CVS RX Services, Inc. (the lawsuit);

WHEREAS, the lawsuit alleges that defendants created a public nuisance, and violated the California Unfair Competition and the False Advertising laws by distributing large volumes of opioids in Santa Barbara County despite knowledge of the growing epidemic caused by opioid misuse, and by failing to prevent and report suspicious opioid orders as required by State and Federal law;

WHEREAS, on July 21, 2021, Janssen Pharmaceuticals, doing business as Johnson & Johnson (J&J), and three large distributors of prescription opioids, Amerisource Bergen Corporation, Cardinal Health, Inc., and McKesson Corporation (hereafter collectively referred to as "Settling Defendants") offered to settle the lawsuits against them (National Settlement) and the State of California thereafter accepted the offer to settle;

WHEREAS, the State of California is estimated to receive over \$2.2 Billion in abatement funds with the County of Santa Barbara estimated to receive between \$9.5 Million and \$22.6 Million over 18 years;

WHEREAS, in order for the County to receive these funds, it must elect to participate in the National Settlement through execution of Settlement Participation forms for the Distributor Settlement and the J&J Settlement and execute the California State Subdivision Agreement before January 2, 2022;

WHEREAS, the Distributor Master Settlement Agreement, the J&J Master Settlement Agreement, and the California State Subdivision Agreement require that the settlement funds be used for approved opioid abatement activities. As a litigating subdivision, the County of Santa Barbara may also use a portion of the settlement funds received for in-house and outside counsel attorneys' fees and costs through execution of "backstop agreements"; and

WHEREAS, upon execution of the Settlement Participation forms, the County of Santa Barbara covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability against the Settling Defendants for their conduct complained of in the lawsuit.

NOW THEREFORE, IT IS RESOLVED THAT:

The Board of Supervisors for the County of Santa Barbara approves and authorizes County Counsel or her designee to execute the following agreements before January 2, 2022:

1. The Settlement Participation forms for the Distributor Settlement and the J&J Settlement, which shall partially settle the action *County of Santa Barbara and the People of the State of California v. Purdue Pharma, et al.* (Case No. 1:17-MD-2804) and waive all claims against the Settling Defendants for their conduct complained of in the lawsuit;
2. The California State Subdivision Agreement, which shall enable the County of Santa Barbara to receive and direct the use of the settlement funds for approved opioid abatement activities; and
3. The Backstop Agreements, which will allow the County to pay the contingency fees of Outside Counsel Keller Rohrback from recovered National Settlement funds in an amount not to exceed 15% of the County's recovery plus costs.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors for the County of Santa Barbara in a meeting thereof held on this 14th day of December 2021 by the following vote:

AYES: Supervisors Williams, Hart, Hartmann, Nelson, and Lavagnino

NOES: None

ABSTENTIONS: None

ABSENT: None

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: *Sheila LaBuona*
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: *Bob Weber*
Chair, Board of Supervisors

Date 12.14.2021

RECOMMENDED FOR APPROVAL AND APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

By: _____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: *C. Schaffer*
Deputy

APPROVED AS TO FORM:

Ray Aromatorio, Risk Manager

By: *Ray Aromatorio*
Risk Management

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By:

Deputy Clerk

COUNTY OF SANTA BARBARA:

By:

Chair, Board of Supervisors

Date

**RECOMMENDED FOR
APPROVAL AND APPROVED AS
TO FORM:**

Rachel Van Mullem
County Counsel

By:

Rachel Van Mullem

County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

Betsy M. Schaffer, CPA
Auditor-Controller

By:

Deputy

APPROVED AS TO FORM:

Ray Aromatorio, Risk Manager

By:

Risk Management