

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

RESOLUTION NO. 24-166

**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.; Does 1 through 100, inclusive (the "lawsuit");

WHEREAS, the lawsuit alleges, *inter alia*, 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 December 14, 2021, the Board of Supervisors adopted a Resolution to partially settle the lawsuit with opioid manufacturers and distributors Amerisource Bergen Corporation, Cardinal Health, Inc., McKesson Corporation, and Janssen Pharmaceuticals, doing business as Johnson & Johnson;

WHEREAS, on April 4, 2023, the Board of Supervisors adopted a Resolution to partially settle the lawsuit with pharmacy chains CVS Health Corporation and CVS Pharmacy, Inc., Walgreens Co., and Walmart Inc., along with opioid manufacturers Allergan Finance LLC (f/k/a Actavis, Inc., f/k/a Watson Pharmaceuticals, Inc.) and Allergan Limited (f/k/a Allergan plc, f/k/a Actavis plc), and Teva Pharmaceutical Industries Ltd. Inclusive of Teva Pharmaceuticals USA, Inc., the Actavis Generic Entities, and Anda Inc.;

WHEREAS, in Fall 2023, The Kroger Co, a grocery retailer who operates supermarket pharmacies (Kroger), offered to settle the opioid lawsuits against it and the State of California thereafter accepted the offer to settle;

WHEREAS, the State of California is estimated to receive up to \$122 Million in abatement funds from Kroger with the County of Santa Barbara estimated to receive up to \$1.2 Million over 11 years;

WHEREAS, in order for the County to receive these funds, it must elect to participate in the Kroger Settlement through execution of a Subdivision Participation and Release Form and execute the Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds before August 12, 2024;

WHEREAS, the Kroger Settlement Agreement and Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds 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 form, 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 Kroger and its "Released Entities" as that term is defined in the Settlement Agreement for each's 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 documents before August 12, 2024, 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):

1. The Subdivision Participation and Release Form for the Kroger settlement, execution of which shall release all claims against The Kroger Co. and their "Released Entities" as that term is defined in the Settlement Agreements for each's conduct complained of in the lawsuit;
2. The Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds, 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 Agreement, which will allow the County to pay the contingency fees of Outside Counsel Keller Rohrbach from recovered Kroger 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 July 16, 2024 by the following vote:

AYES: Supervisors Williams, Capps, and Hartmann

NOES: None

ABSTENTIONS: None

ABSENT: Supervisors Nelson and Lavagnino

[Signatures on Following Page]

RESOLUTION AUTHORIZING PARTIAL SETTLEMENT OF OPIOID LITIGATION

ATTEST:

MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: 
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: 
STEVE LAVIGNINO, CHAIR
BOARD OF SUPERVISORS

Date 7-16-24

**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: _____
Deputy

APPROVED AS TO FORM:

GREG MILLIGAN, ARM
RISK MANAGER

By: _____
Risk Management

RESOLUTION AUTHORIZING PARTIAL SETTLEMENT OF OPIOID LITIGATION

ATTEST:

MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: _____
STEVE LAVIGNINO, CHAIR
BOARD OF SUPERVISORS

Date _____

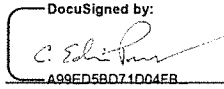
**RECOMMENDED FOR
APPROVAL AND APPROVED
AS TO FORM:**

RACHEL VAN MULLEM
COUNTY COUNSEL

By: _____
County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By:  _____
Deputy

APPROVED AS TO FORM:

GREG MILLIGAN, ARM
RISK MANAGER

By:  _____
Risk Management