

Y'all Politics

Espy eyes massive pay day by enlisting his client, Madison County

By Frank Corder | March 15, 2020

Mississippi knows all too well what can happen when politicians and trial lawyers leverage public bodies to make millions on lawsuits for themselves.

The worst political/judicial bribery scandal in this state's history started with the same ingredients and resulted in federal prison time for prominent trial lawyers, circuit judges and special assistant Attorneys General under former Attorney General Jim Hood.

Now Mike Espy has enlisted his paying client, Madison County, in such an effort.

Espy is promoting a national opioid lawsuit based on the damages cities and counties have incurred related to opioid addiction and abuse, such as increased health care costs, prescription costs, criminal justice costs, tax collection losses, loss of productivity, and other factors, which alleges that the issue is in the over prescribing of opioid medications as a result of careless and negligent medical care.

Espy, the Democratic nominee for U.S. Senate in Mississippi, serves as the Board Attorney for Madison County. The Republican controlled body hired Espy earlier this year. Espy is challenging Republican U.S. Sen. Cindy Hyde-Smith for the second time in as many years, losing in 2018 54% to 46%.

At the March 2nd meeting of the Board of Supervisors, Espy (at 1:18:00) requested authorization from the Board to enlist the county in the federal multi-district litigation against opioid manufacturers and distributors.

He represented to the Board that while he was unaware if Madison County had any damages related to opioid addictions, being part of the litigation would be a good “remedy” for the county if damages exist.

The lawsuit is currently being considered in Federal District Court in Ohio.

“Usually, litigation matters are assembled in executive session. It’s not necessary for this one because the issue is very well known around the nation,” Espy told the Supervisors in open session. “Plus, to be honest with you, and for the sake of transparency, I’d like to be named as local counsel and I’d just like for it to be out in the public.”

Espy requested the Board engage New York trial lawyers Napoli Shkolnik, PLLC who are serving as co-lead counsel in the action to represent Madison County, in association with himself as the local counsel in this lawsuit. Napoli Shkolnik is currently representing over 200 counties and cities, Espy said.

“I would not charge any hourly fees whatsoever to you at all, even if I went to Ohio to manage your part of this lawsuit,” Espy said. “My fees would come from the Napoli Shkolnik agreement with them.”

That agreement sets the New York law firm, and Espy as local counsel, on a contingency contract, meaning no fees or expenses will be charged to Madison County unless there is a financial settlement in the matter.

However, if such a recovery occurs, the attorneys stand to make one-third of the settlement amount, with Espy then getting his cut.

“Two Ohio counties were given \$200 million each,” Espy told Supervisors.

The case Espy is referring to settled for a combined \$260 million in the fall of 2019 with Summit and Cuyahoga Counties, not \$200 million for each county.

If you are trying to calculate one-third of \$260 million, that would be nearly \$87 million to be paid in attorney fees for this lawsuit just in those two counties assuming they are operating under the same contingency agreement.

Marie Napoli, founding partner of the Napoli Shkolnik firm, spoke of the Ohio settlement in October 2019 as a bellwether for future settlements.

“This amount seems like a high number but when you see what’s going on in our country and the amount of expense each of our counties are putting forward to fight this epidemic, some of them are putting forward a third of their entire budget, it seems more reasonable when you understand that,” Napoli said in an interview (see below). “So this is important because it will give other parties future guidelines of what these cases will settle for.”

Following the Ohio settlement, Reuters reported that the four large drug companies (AmerisourceBergen Corp, Cardinal Health Inc., McKesson Corp, and Teva Pharmaceutical Industries Ltd.) were considering a \$48 billion settlement of all opioid litigation against them over their role in the opioid epidemic.

If you are keeping score, one-third of \$48 billion would be \$16 billion to be paid in attorney fees assuming again it would be under a similar contingency agreement as presented by Espy in Madison County.

“I don’t know the timetable of this but I do know that these lawsuits are beginning to settle,” Espy said.

As to how damages are to be determined, Espy compared this litigation to the BP Oil Spill settlement matrix used by a judge in Louisiana when determining those damages.

“The judge is probably going to appoint an economist to look around the nation and segregate by locality, remoteness, and how many of these pain killers were probably distributed in this county, and then come up with an estimate of damages that we (Madison County) would have to apply for.”

Any funds awarded by a settlement to the county would go towards recovering costs incurred as a result of the opioid crisis and administering programs to help fight the opioid epidemic in those areas. The other third would be shared by Espy and the Napoli Shkolnik law firm.

The Madison County Board of Supervisors voted 4-0 with one abstention (Supervisor Trey Baxter) to join the lawsuit.

According to Espy’s handout to the Board, the following counties and cities in Mississippi have already formally entered the opioid lawsuit in Ohio.

Counties: Adams; Amite; Benton; Carroll; Chickasaw; Claiborne; Clarke; Covington; DeSoto; Forrest; Franklin; George; Hancock; Harrison; Hinds;

Holmes; Humphreys; Itawamba; Jefferson; Jefferson Davis; Lafayette; Lawrence; Lee; Leflore; Lincoln; Marion; Marshall; Monroe; Neshoba; Panola; Pearl River; Perry; Prentiss; Stone; Sunflower; Tallahatchie; Tate; Tippah; Union; Walthall; Washington; Yalobusha.

Cities: Philadelphia; Charleston; Hattiesburg; New Albany; Greenwood; Laurel; luka; Lumberton Columbus; Columbia; Starkville; Shannon; Verona; Nettleton; Gulfport; Mound Bayou; Tupelo; Long Beach; Amory; Wiggins; Caledonia; Summit; Arcola.

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