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NY County Says Meyer Suozzi Betrayed It In Opioid Case

By **Dorothy Atkins**

Law360 (March 16, 2020, 4:21 PM EDT) -- Nassau County urged a New York state court Friday to disqualify its former law firm Meyer Suozzi from representing Mallinckrodt in the county's suit over the opioid crisis, arguing that the firm is trying to "switch sides" after defending the Long Island county for five years.

In a 24-page motion to disqualify, the county argued that Meyer Suozzi English & Klein PC should be barred from representing the U.K.-based Mallinckrodt LLC and its subsidiary SpecGx LLC in a hotly contested case over the impact of the opioid crisis on local communities.

The county argued that Meyer Suozzi represented it from 2014 until last year in litigation over prisoner conditions, and during that time it was given "broad" access to confidential information about its medical practices. That knowledge makes the potential prejudice to Nassau County in its suit against drugmakers "incalculable," the county said.

"This situation is the paradigm for why the conflict of interest rules exist and Meyer Suozzi should be disqualified from representing Mallinckrodt in this case," the county said in its motion.

Meyer Suozzi defended the county against cases brought by more than 200 former inmates who complained about the conditions in the Nassau County Correctional Center, according to the motion.

During that time, the law firm received confidential county documents, including details about inmate grievances, prison personnel records and proprietary NCCC operational documents related to its medical facility, the county said.

But according to the motion, in January the firm made an appearance on behalf of Mallinckrodt in the county's case alleging the company and other drugmakers overtaxed its medical systems and community services, including the NCCC. The county also noted that its claims in the opioid crisis case cover the same time period during which the firm received confidential information about the NCCC's medical system.

When the county's counsel realized the potential conflict, it wrote a letter to Meyer Suozzi asking that it withdraw as Mallinckrodt's counsel, according to the motion.

But the firm refused, responding in a Feb. 21 letter that insisted that the cases were not related and that it didn't have any relevant confidential information. The firm added that the county was merely trying to manufacture a "last-minute excuse" for depriving Mallinckrodt of its fundamental right to choose counsel.

The letter prompted the county to file its disqualification motion, which argues that it's impossible to know whether the firm's knowledge of the county's medical information influenced the drugmaker's decision to retain it.

The county further argued that Mallinckrodt won't be prejudiced by the disqualification, because Ropes & Gray LLP has served as its lead counsel for the past two years, while Meyer Suozzi has only handled a "small" appeal in the past month.

Nassau County's counsel Hunter J. Shkolnik of Napoli Shkolnik PLLC said in an email to Law360 Friday that Meyer Suozzi has "stabbed the citizens of Nassau County in the back" by representing Mallinckrodt, which he called "the dirtiest company second only to Purdue in causing the [opioid] epidemic."

Kevin Schlosser of Meyer Suozzi said in an email Monday that Mallinckrodt intends to oppose the county's motion "in its entirety," adding that there is no ground for disqualification.

"This motion appears to be an improper attempt to deprive a party of counsel of its choice, which courts have rejected as nothing more than an 'offensive tactic, inflicting hardship on the current client and delay upon the courts,'" he wrote.

The disqualification motion is the latest development in a lawsuit brought by New York and two Long Island counties against major drug manufacturers and distributors. The case was **set to go to trial on March 20**, but the court **postponed** the trial due to the coronavirus outbreak last week.

Although states and local governments have filed thousands of cases blaming drug companies for the opioid crisis, only one case has gone to trial. That trial saw Oklahoma's attorney general win a \$465 million judgment against Johnson & Johnson, which is appealing.

Nassau County is represented by Hunter J. Shkolnik and Salvatore C. Badala of Napoli Shkolnik PLLC, and Ronald C. Minkoff and Jared B. Benjamin of Frankfurt Kurnit Klein & Selz PC.

Mallinckrodt is represented by Kevin Schlosser and Randall Eng of Meyer Suozzi English & Klein PC.

The case is In re: Opioid Litigation, case number 400000/2017, in the Supreme Court of New York, County of Suffolk.

--Additional reporting by Jeff Overley. Editing by Adam LoBelia.

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