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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Sacklers Can't Escape NY Opioid MDL

By **Mike Curley**

Law360 (June 24, 2019, 4:26 PM EDT) -- The Sackler family members who control Purdue Pharma LP can't avoid claims they were complicit in alleged company conduct that gave rise to the nationwide opioid epidemic, a New York judge has ruled, finding they must face multidistrict litigation in the state.

New York Supreme Court Judge Jerry Garguilo rejected the Sacklers' bids to dismiss claims against them filed by dozens of New York counties and cities, saying Friday the plaintiffs have made a strong enough case to survive this early stage of the litigation.

As with the ongoing **federal MDL** in Ohio district court, the New York plaintiffs are suing Purdue and other pharmaceutical companies over allegations they misrepresented the dangers of opioid use and addiction, causing the nationwide epidemic and costing municipalities and counties the expense of treatment programs and other charges. The case was consolidated in July 2017 and is made up of claims by 36 New York counties and municipalities.

Some of the Sacklers sought to dismiss the case because they do not reside in New York. But Judge Garguilo ruled that it's too early to make a determination, saying discovery could show that they acted as Purdue's agents in the alleged scheme and put them under New York's long-arm statute, which puts nonresidents under the court's jurisdiction if they conducted business in or affecting the state.

The family also argued the claims went beyond New York's three-year statute of limitation, saying the plaintiffs didn't allege any conduct by them after July 2013 and added them to the suits in October 2018. The judge found, however, that the plaintiffs in the MDL alleged a continuing harm that ran up until the complaint was filed and effectively renewed the accrual of the statute of limitations as it went.

The plaintiffs also plausibly alleged that the Sacklers were complicit in the company's practices of targeting prescribing doctors who didn't have special training in opioids and the company's efforts to resist public health initiatives in the opioid crisis, according to Friday's order.

Judge Garguilo allowed that the Sacklers could move to dismiss after the discovery phase.

"We are pleased that Justice Garguilo ruled in favor of the New York governmental entities and has required the Sackler family to account for its role in creating the nationwide opioid epidemic," Paul Hanly of Simmons Hanly Conroy LLC, co-lead counsel for the plaintiffs, told Law360 on Monday.

Salvatore C. Badala of Napoli Shkolnik PLLC, also representing the plaintiffs, said his clients look forward to taking the Sacklers to court.

"This was the first decision issued by a court regarding the Sackler family," Badala told Law360 on Monday. "We could see a trend now where other plaintiffs across the country will be adding the Sackler family as defendants to their complaints."

Paul J. Napoli of Napoli Shkolnik said the discovery should establish each of the Sacklers' connections to Purdue's board, as well as whatever instructions or actions they took that resulted in the opioid crisis.

"We think that now is the first opportunity for this information to start coming to light," he told Law360 on Monday.

Purdue CEO and President Richard S. Sackler, Jonathan D. Sackler, Kathe Sackler, Ilene Sackler Lefcourt, Mortimer D.A. Sackler, Beverly Sackler, Theresa Sackler and David A. Sackler are named as defendants in the MDL. Pharmaceutical companies Teva Pharmaceuticals USA Inc., Insys Therapeutics Inc., Cardinal Health Inc. and others are also named as defendants.

An attorney for the Sacklers declined to comment.

The Sacklers are represented by Maura Kathleen Monaghan, Susan Reagan Gittes and Jacob W. Stahl of Debevoise & Plimpton LLP and Gregory P. Joseph, Mara Leventhal, Douglas J. Pepe, Peter R. Jerdee, Christopher J. Stanley, Roman Asudulayev, Gila S. Singer and Benjamin H. Albert of Joseph Hage Aaronson LLC.

Purdue is represented by Mark S. Cheffo, Hayden A. Coleman and Mara Cusker Gonzalez of Dechert LLP.

The plaintiffs are represented by Thomas I. Sheridan III, Paul J. Hanly Jr., Jayne Conroy, Andrea Bierstein, Sarah S. Burns and Richard Kroeger of Simmons Hanly Conroy LLC and Paul J. Napoli, Salvatore C. Badala and Joseph L. Ciaccio of Napoli Shkolnik PLLC.

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

--Additional reporting by Jeff Overley and Hailey Konnath. Editing by Alanna Weissman.

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