



Office of the County Executive
Monroe County, New York

Adam J. Bello
County Executive

September 10, 2021

OFFICIAL FILE COPY	
No.	210359
Not to be removed from the Office of the Legislature Of Monroe County	
Committee Assignment	
URGENT	-1

To The Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Subject: Authorization to Enter into Two Settlement Agreements in the New York Coordinated Opioid Litigation (Supreme Court, Suffolk County Index No. 400000/2017)

Honorable Legislators:

I recommend that Your Honorable Body authorize two settlement agreements to recover funds from opioid manufacturers and distributors in connection with the New York Coordinated Opioid Litigation, *In re Opioid Litigation* (Supreme Court, Suffolk County Index No. 400000/2017). Through these settlements, Monroe County will receive substantial funds to address the opioid crisis in our community.

Each of the two proposed settlements will provide a multi-million dollar recovery to Monroe County. The majority of the funds recovered must be dedicated to combatting the opioid epidemic. Each settlement agreement contains a range of potential recoveries: the total amount the defendants are obligated to pay to New York State and New York municipalities is dependent on the level of participation by municipalities in the settlement agreement. In other words, both Monroe County and other municipalities across the State will receive more, and the defendants will pay more, if Monroe County and other counties across the State all adopt the proposed settlement.

In the first settlement, Monroe County will receive a minimum settlement of \$2,338,504 and a maximum settlement of \$5,457,543 from Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. (collectively, "Johnson & Johnson"). Johnson & Johnson will pay a maximum total of \$229.8 million to New York State and New York municipalities over a ten-year period as compensation for the role Johnson & Johnson played in exacerbating the opioid crisis by promoting opioid consumption and failing to prevent the diversion of prescription opioids.

In the second settlement, Monroe County will receive a minimum settlement of \$13,941,014 and a maximum settlement of \$24,626,603 from the three major pharmaceutical distributors: McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation. These distributors, who collectively control over 90% of the pharmaceutical distribution market in the United States, will pay a maximum total of \$1 billion to New York State and New York municipalities over an 18-year period as compensation for failing to take adequate measures to prevent the diversion of prescription opioids.

Monroe County retained the law firm Simmons Hanly Conroy to act as outside counsel for the County in this litigation and filed complaints against Johnson & Johnson in January 2018 and against the distributors in December 2018. Simmons Hanly Conroy is strongly recommending that all of its clients join in these settlements. New York State is also a party to this litigation and the New York Attorney General has signed off on these settlement agreements and recommends that municipalities join them. The New York settlements with Johnson & Johnson and the Distributors are being completed ahead of, but in conjunction with, national settlements with the same parties. Both settlement agreements contain clauses providing that if the national settlements ultimately prove

more generous to the New York parties, the New York parties will recover the higher figure, so there is no danger of losing out by joining the New York settlements ahead of the national settlement. As noted above, the settlement agreements are structured such that all Counties must promptly approve the agreements in order to receive the maximum amount. Monroe County's claims against other defendants in the New York Coordinated Opioid Litigation, including major manufacturers and large pharmacy chains, remain pending, and it is possible that Monroe County will recover additional amounts from these defendants in the future.

I am committed to ensuring that the funds recovered pursuant to these settlements are utilized to combat the opioid epidemic, not diverted to other governmental purposes. For this reason, I am recommending that this Honorable Body create a trust fund to ensure that all funds received pursuant to these settlement agreements, regardless of whether the funds are restricted or unrestricted pursuant to the terms of the settlement, are dedicated to responding to the opioid epidemic and the ongoing harm it is causing our community.

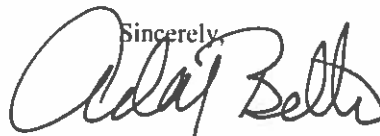
The specific legislative actions required are:

1. Authorize the settlement and release of the County's claims against Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. in *In re Opioid Litigation* (Supreme Court, Suffolk County Index No. 400000/2017).
2. Authorize the settlement and release of the County's claims against McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation in *In re Opioid Litigation* (Supreme Court, Suffolk County Index No. 400000/2017).
3. Authorize the County Executive, or his designee, to execute and deliver any and all documents necessary to effectuate such settlements.
4. Authorize the County Controller to establish a trust fund for the receipt and accounting of Monroe County's share of funding resulting from the Opioid Litigation settlement.

The legislative action requested in this referral is not an "Action," as that term is defined in 6 NYCRR § 617.2(b), and is not subject to review under the State Environmental Quality Review Act.

These contracts are revenue generating and no net County support is required in the current Monroe County budget.

I recommend that this matter receive favorable action by Your Honorable Body. I request that this referral be considered in Executive Session, pursuant to Public Officer's Law § 105(1)(d).

Sincerely,


Adam J. Bello
Monroe County Executive

By Legislators _____ and _____

Intro. No. _____

RESOLUTION NO. _____ OF 2021

AUTHORIZING TWO SETTLEMENT AGREEMENTS IN NEW YORK COORDINATED OPIOID LITIGATION (SUPREME COURT, SUFFOLK COUNTY INDEX NO. 400000/2017)

BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. The Legislature hereby authorizes the settlement and release of the County's claims against Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. in *In re Opioid Litigation* (Supreme Court, Suffolk County Index No. 400000/2017).

Section 2. The Legislature hereby authorizes the settlement and release of the County's claims against McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation in *In re Opioid Litigation* (Supreme Court, Suffolk County Index No. 400000/2017).

Section 3. The County Executive, or his designee, is hereby authorized to execute and deliver any and all documents necessary to effectuate such settlements.

Section 4. The County Controller is hereby authorized to establish a trust fund for the receipt and accounting of Monroe County's share of funding resulting from the Opioid Litigation settlement.

Section 5. This resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Matter of Urgency
File No. 21-_____

ADOPTION: Date: _____ Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ DATE: _____

EFFECTIVE DATE OF RESOLUTION: _____