

DECEMBER 8, 2022
CLOSED SESSION REPORT OF FINAL ACTION

Date of Meeting: *Thursday, December 8, 2022*

Affirmative Litigation Negotiations

NAME OF ACTION:

The People of the State of California, acting by and through Santa Clara County Counsel James R. Williams, Orange County District Attorney Tony Rackauckas, Los Angeles County Counsel Mary C. Wickham, and Oakland City Attorney Barbara J. Parker v. Purdue Pharma L.P.; Purdue Pharma Inc.; The Purdue Frederick Company, Inc.; Teva Pharmaceutical Industries, Ltd; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-Mcneil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Janssen

Orange County Superior Court Case No. 30-2014-00725287-CU-BT-CXC

In re National Prescription Opiate Litigation

MDL Master Docket No. 1:17-MD-2804

In re: Mallinckrodt PLC, et al.

United States Bankruptcy Court, District of Delaware, Case No. 20-12522

This matter is listed as **Item No. 1(e)** on the Closed Session Agenda:

The council authorized: the City Attorney to: join the California Mallinckrodt Statewide Abatement Agreement (“Agreement”), a statewide agreement to govern the allocation, distribution, use, and reporting of all funds allocated to California from the National Opioid Abatement Trust II (“NOAT II”) in In re: Mallinckrodt PLC, et al, Case No. 20-12522, pending in the United States Bankruptcy Court, District of Delaware.

These cases arose out of incidents (the “opioid crisis”) occurring in: Oakland, across the state of California, and nationally.

FACTS/ISSUES:

In May 2014, the Santa Clara County Counsel’s Office and the Orange County District Attorney’s Office filed the first lawsuit in the nation brought by government entities against major opioid manufacturers (“Manufacturers”) for the companies’ roles in creating and perpetuating the opioid crisis. In 2018, Oakland and Los Angeles County, in the name of the People of the State of California, joined that lawsuit. The lawsuit was and is distinct from the Agreement before the Council, but the City Attorney’s participation in that lawsuit has put the City of Oakland in its current position to authorize the City Attorney to join the present Agreement.

The California Mallinckrodt Statewide Abatement Agreement arose from federal litigation by innumerable state and local governments across the country, challenging the conduct of a wide variety of opioid industry actors for the roles they played in the opioid crisis. The Agreement changes the default allocation provided by NOAT II in the corporation’s bankruptcy proceedings to make the allocation more favorable to many local governments in California, providing more overall funding to cities such as Oakland for opioid abatement.

The California Mallinckrodt Statewide Abatement Agreement must be signed by local entities representing a certain percentage of the State of California, as well as by the California Attorney General. Local governments have until December 8, 2022 to indicate their willingness to join the Agreement.

Motion Made by: **Councilmember Taylor**

Motion Seconded by: **Councilmember Reid**

AYES: Fife, **Gallo, Kalb, Kaplan, Reid, Taylor**, Thao and President Fortunato Bas= **5**

NOES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=

ABSENT: **Fife**, Gallo, Kalb, Kaplan, Reid, Taylor, **Thao** and **President Fortunato Bas=3**

ABSTENTIONS: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao and President Fortunato Bas=

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