

Divided US high court hears challenge to \$6bn Purdue opioid settlement

December 4 2023, by Selim Saheb Etaba and Chris Lefkow



The US Supreme Court is to hear a challenge to Purdue Pharma's \$6bn opioids settlement.

The US Supreme Court appeared divided on Monday as it heard a challenge to Purdue Pharma's \$6 billion opioids settlement immunizing

the Sackler family that controlled the drugmaker from future litigation.

The Justice Department is arguing that the Sacklers, who earned tens of billions of dollars flooding the country with highly addictive opioids, should not gain sweeping legal protection in the controversial deal.

Last year's agreement, which came after years of negotiations involving officials from all 50 US states, set aside \$6 billion from the 2019 bankruptcy of Purdue, which made prescription painkillers like OxyContin, for victims of the opioid epidemic.

The settlement, which has been put on hold by the Supreme Court, gave the families of Raymond Sackler and Mortimer Sackler protection from all future civil claims, effectively protecting their other assets from opioid-related lawsuits.

The Justice Department, acting as a bankruptcy watchdog body known as the US Trustee, accuses the Sacklers of withdrawing \$11 billion from Purdue Pharma over the decade before the company filed for bankruptcy protection.

Deputy Solicitor General Curtis Gannon outlined the Biden administration's objections to the deal before the nine justices on the nation's highest court.

"It permits the Sacklers to decide how much they're going to contribute," Gannon said. "It grants the Sacklers the functional equivalent of a discharge."

Justice Elena Kagan said this would appear to go against a "fundamental bargain in bankruptcy law, which is you get a discharge when you put all your assets on the table to be divided up among your creditors.

"And I think everybody thinks that the Sacklers didn't come anywhere close to doing that."

At the same time, the liberal justice went on to note there was vast support for the deal even "among people who think that the Sacklers are pretty much the worst people on Earth."

"It seems as though the federal government is standing in the way against the huge, huge, huge majority of claimants who have decided that if this provision goes under, they're going to end up with nothing," she said.



Purdue Pharma's OxyContin, one of the main prescription opioids that stoked the US addiction and overdose epidemic beginning in the early 2000s.

Purdue's bankruptcy filing resulted directly from the massive, country-

wide litigation against it and other major drugmakers and pharmacy companies for knowingly fomenting the addiction crisis.

Under the March 2022 settlement, the Sacklers were "absolutely, unconditionally, irrevocably, fully, finally, forever and permanently" released from further legal liability.

'Left with nothing'

Justice Brett Kavanaugh, a conservative, appeared skeptical about throwing out a settlement that had been approved by more than 95 percent of the claimants who voted for the plan and of a type that he said bankruptcy courts have been approving for 30 years.

"I think what the opioid victims and their families are saying is you, the federal government, with no stake in this at all, are coming in and telling the families 'No, we're not going to give you prompt payment,'" Kavanaugh said. "In exchange, really, for this somewhat theoretical idea that they'll be able to recover money down the road from the Sacklers themselves."

Gregory Garre, representing Purdue Pharma, said rejecting the settlement could lead to years of litigation and leave victims with no compensation at all.

"If the Trustee succeeds here, the billions of dollars that the plan allocates for opioid abatement and compensation will evaporate, creditors and victims will be left with nothing, and lives literally will be lost," Garre said.

Justice Amy Coney Barrett raised questions about what effect a ruling in the case could have for other mass tort cases involving, for example, Johnson and Johnson, whose talcum powder is alleged to have caused

cancer, or abuse claims against the Catholic Church and Boy Scouts of America.

The opioid epidemic has caused more than 500,000 overdose deaths in the United States over two decades, authorities say.

Purdue and other opioid makers were accused of encouraging free-wheeling prescription of their products through aggressive marketing tactics while hiding how addictive the drugs are.

Facing an avalanche of litigation, in 2021 Purdue pled guilty to three criminal charges over its marketing of OxyContin.

The Supreme Court is expected to rule in the case before June of next year.

© 2023 AFP

Citation: Divided US high court hears challenge to \$6bn Purdue opioid settlement (2023, December 4) retrieved 28 April 2024 from <https://medicalxpress.com/news/2023-12-high-court-6bn-purdue-opioid.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--