

Suing 'Big Pharma'? 'Assume you're going to trial,' expert says

By [MARY ANN BARTON](#) Oct. 27, 2017

If your county plans to sue over opioid painkillers, assume you're going to trial #NACoLUCC



As the White House declared widespread opioid addiction a nationwide public health emergency Thursday, members of NACo's Large Urban County Caucus (LUCC) gathered to hear from a panel of experts about suing opioid manufacturers and distributors. About 100 county officials and others are tackling some of their most challenging issues during a three-day LUCC symposium in Salt Lake County.

Learn More

Watch the panel discussion <<http://www.naco.org/resources/opioid-litigation-overview-accountability-and-deterrence>>

"It's important we get out there and understand what this addiction is and how we as leaders in our communities have to combat it," said Larry Johnson, LUCC chair and commissioner, DeKalb County, Georgia.

One part of the arsenal for counties? Going to court. Counties, cities and states are suing drug manufacturers for fraud, negligence and public nuisance.

"Where the political and regulatory processes have failed, the courts are sometimes the last resort for trying to get some kind of compensation," said Teneille Ruth Brown J.D., professor of law, at the University of Utah, who moderated Thursday's discussion.

If your county is considering whether to sue an opioid manufacturer or distributor, be prepared to go to trial one panelist advised.

"We go into every lawsuit that we file with the assumption that we are going to go to trial," said Danny Chou, assistant county counsel, Santa Clara County, Calif. Santa Clara County was the first local government to bring an opioid-related lawsuit, in 2014, under California's consumer protection laws and public nuisance statutes, he noted.

"We find that in order to litigate against these large corporate defendants," he said, "if they don't believe you're willing to go to trial, they'll just run all over you."

Harriet Ryan, a reporter for the *Los Angeles Times*, who is part of a team at the newspaper reporting on the opioid crisis, said that drug manufacturers have armed themselves with information about alleged illicit activity involving their prescription opioids, but have done little to stop it, in order to continue to make profits.

The newspaper published a series of articles last year about the opioid epidemic, focusing on Purdue Pharma, a manufacturer of OxyContin, that made several points, Ryan said:

In 2007, the Justice Department and several states reached a settlement with Purdue Pharma for its early marketing of OxyContin as being less addictive than it actually was, reaching a \$600 million settlement.

The reporters' findings revealed there was a "duration" problem with OxyContin, where it wears off early in many patients, fostering addiction, and making people "accidental addicts."

Illicit trafficking of OxyContin showed involvement by drug dealers and gangs. "Our investigation showed that this company, with its beautiful headquarters in Stamford, Connecticut, collected lots and lots of evidence of suspected trafficking of its pills. In many, many cases they never turned it over to law enforcement. They did not stop the flow of their pills into "dirty" pharmacies that were fueling our national problem.

What's happening now that sales of opioids are falling? The family that owns Purdue has a strategy for replacing their lost revenues by selling pills in China, Latin America and Africa, using a lot of the same tactics they used here.

The opioid crisis "reveals so much that's broken in our system and so many failures," Brown said. "Failures in regulatory law, failures in our response, failures in regulating doctors and pharmaceutical companies. There isn't one corner of society that is immune."

About Mary Ann Barton ([Full Bio](#))

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Mary Ann Barton is a senior staff writer for County News and is returning to NACo after previously working at the association. She comes to NACo after covering local news for Patch.com in Northern Virginia.

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