More States Likely to Sue over Opioid Epidemic

Texas lawyer **Kent Sullivan**, who helped build a potent state health care fraud unit as the No. 2 lawyer in the Texas Attorney General's office, is convinced that more states will follow Mississippi and Ohio in suing to recover damages related to the opioid epidemic, reports a post on the website of **Androvett Legal Media & Marketing**. Sullivan, now a partner in the Austin office of **Jackson Walker LLP**, says states wield "a huge hammer" over defendants through their tough anti-fraud laws.

> *"I expect a national trend, a significant wave of lawsuits against the companies and organizations connected with the spread of these powerful prescription drugs. States will be very tempted by the significant potential damages that may be awarded in court to try to recoup some of the costs of treatment.*
>
> *"There is, of course, a way to successfully defend these cases, but at the beginning, state governments have a huge advantage under Medicaid fraud and consumer protection statutes. There is an easier burden of proof and enhanced damages available under these laws. Intent or negligence often is not required to prove liability. You have a huge hammer over these companies' heads, and they can be at risk of losing more than actual damages. The damages are often multiplied if you're found liable, and the states can often recover attorneys' fees.*
>
> *"As government health care has expanded, so have anti-fraud actions by states. These lawsuits are not part of the traditional private party litigation framework, where the burden of proof is higher. In many cases, the defendants consider settlement to avoid the significant risk and high*

> *cost of litigation. It is fairly unusual for these cases to go to trial but, as I often tell clients, the way to obtain the best settlement is to be totally ready for trial.”*

Sullivan, a former appeals court judge, was chief deputy AG to then-Attorney General Greg Abbott and ramped up the state’s Civil Medicaid Fraud Division from four lawyers to over 40. In 2012, Texas won a $158 million settlement from Johnson & Johnson over its improper marketing of the anti-psychotic drug Risperdal to patients on Medicaid from 1994-2008. It was the largest Medicaid settlement in Texas history and is believed to be the first settlement paid at that time to any state in the nationwide litigation over Risperdal.

Join Our LinkedIn Group