

No. 23-124

IN THE
Supreme Court of the United States

WILLIAM K. HARRINGTON,
UNITED STATES TRUSTEE, REGION 2,

Petitioner,

v.

PURDUE PHARMA L.P., *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

**BRIEF OF *AMICI CURIAE* THE ARKANSAS OPIOID
RECOVERY PARTNERSHIP, THE ASSOCIATION
OF ARKANSAS COUNTIES, AND THE ARKANSAS
MUNICIPAL LEAGUE**

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TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	ii
INTERESTS OF THE <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	4
I. Before Purdue filed for bankruptcy protection, and consistent with the bankruptcy Plan later developed below, the governments of Arkansas sought to abate the opioid crisis in their communities	4
II. Recognizing the severe need in their communities, the local governments of Arkansas formed a partnership to abate the opioid crisis—ARORP	7
III. ARORP has demonstrated that with substantial abatement funding, we can save and restore lives, and abate the opioid crisis	12
IV. The Plan should be affirmed because the Plan will save and restore lives and abate the opioid crisis across America	18
CONCLUSION	21

TABLE OF CITED AUTHORITIES

	<i>Page</i>
CASES:	
<i>State of Ark. v. Ellington</i> , Ark. Supreme Court No. CV-18-296 (writ petition denied April 6, 2018)	5
<i>State of Ark. v. Cephalon, Inc.</i> , Ark. Supreme Court No. CV-20-48 (writ petition denied Feb. 20, 2020)	5
<i>United States v. Robinson</i> , 892 F.3d 209 (6th Cir. 2018).	5
STATUTES:	
Ark. Code Ann. § 14-20-107	1
Ark. Code Ann. § 19-8-303.	1
COURT FILINGS:	
Doc. 3232 (July 15, 2021).	6
Doc. 4016-1 (Oct. 22, 2021)	7
Brief for Ellen Isaacs as Respondent Supporting Petitioner.	3
Complaint, <i>State of Ark. et al v. Purdue Pharma L.P.</i> <i>et al</i> , Crittenden County (Ark.) Circuit Court No. 18CV-18-268 (March 15, 2018).	4

Cited Authorities

	<i>Page</i>
Order Establishing the Arkansas Opioids Qualified Settlement Fund, Appointing the Fund Administrator, and Appointing the Custodial Bank (June 13, 2022), in <i>Crittenden County, Ark. and City of West Memphis, Ark. v. Perry County Food & Drug, Inc.</i> , Crittenden County (Ark.) Circuit Court No. 18CV-22-355	11
Petitioner’s Brief	20
OTHER AUTHORITIES:	
Elizabeth Pérez-Chiqués et al., <i>What Do Local Governments Need to Address Public Health Crises?</i> , ROCKEFELLER INST. OF GOV’T (Apr. 16, 2020)	5
Elizabeth Weeks & Paula Sanford, <i>Financial Impact of the Opioid Crisis on Local Government: Quantifying Costs for Litigation and Policymaking</i> , 67 U. Kan. L. Rev. 1061 (2019)	5
<i>Principles to Guide Spending of Opioid Litigation Settlement Funds in Arkansas</i> , Arkansas Center for Health Improvement (ACHI) (Aug. 1, 2022)	10
www.arml.org/about-aml/mission-statement/	1
www.arorp.org/about/	12

Cited Authorities

	<i>Page</i>
www.arorp.org/arkansas-dea-collects-staggering-amount-of-drugs-for-national-prescription-drug-take-back-day/	14
www.arorp.org/arkansas-opioid-recovery-partnership-announces-funding-opportunities-for-abatement-programs/	12
www.arorp.org/funding-opportunities/	15
www.arorp.org/learn-more-naloxone-community-hero-project/	12
www.arorp.org/learn-more-overdose-response-team/	16
www.arorp.org/our-team/	12
www.arorp.org/progress/	13, 14, 15, 16, 17
www.arorp.org/wp-content/uploads/2022/11/Arkansas-Opioids-MOU-Executed-July-2021.pdf	7
www.arorp.org/wp-content/uploads/2022/11/Counties-Distribution-Agreement-without-exhibits.pdf	11
www.arorp.org/wp-content/uploads/2022/11/Cities-Distribution-Agreement-without-exhibits.pdf	11

Cited Authorities

	<i>Page</i>
www.arorp.org/wp-content/uploads/2023/ 10/ARORP-Denial-Log.pdf	18
www.artakeback.org/take-back/about- take-back/	14
www.artakeback.org/the-arkansas-opioid- dashboard	10
www.cdc.gov/drugoverdose/rxrate-maps/ county2020.html	15
www.cdc.gov/drugoverdose/rxrate-maps/ state2020.html	15

INTERESTS OF THE *AMICI CURIAE*¹

Amicus curiae the Association of Arkansas Counties (“AAC”) exists “to aid in the improvement of county government in the State of Arkansas” and “is recognized as the official agency of the counties of this state to receive funds and use them for making a continuing study of ways and means to improve county government in Arkansas.”² *Amicus curiae* the Arkansas Municipal League (“AML”) is the official representative of Arkansas cities and towns before the state and federal governments. AML provides a clearinghouse for information and answers for cities and towns and offers a forum for discussion and sharing of mutual concerns among cities and towns.³

Amicus curiae the Arkansas Opioid Recovery Partnership (“ARORP”) is a partnership of the AAC and AML, on behalf of all Arkansas counties and cities and towns, formed to administer an abatement program in response to the Arkansas opioid crisis. ARORP is charged with the distribution of abatement funding from opioid settlements and bankruptcies in counties and cities across Arkansas. ARORP has a strong interest in this

1. No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae, their members, or their counsel made a monetary contribution to its preparation or submission.

2. See Ark. Code Ann. § 14-20-107(b) & (d).

3. See www.arml.org/about-aml/mission-statement/. See also Ark. Code Ann. § 19-8-303(1) & (2) (providing that “local government association” shall mean the “Association of Arkansas Counties” and the “Arkansas Municipal League”).

case and the Chapter 11 reorganization plan issued below (the “Plan”), because all 75 Arkansas counties and most Arkansas cities and towns are creditors in this bankruptcy proceeding, and ARORP will distribute funds received from the Plan in the manner envisioned by the Plan.

SUMMARY OF ARGUMENT

For years, Arkansas counties and cities have maintained a strong partnership in response to the opioid crisis. First, Arkansas counties and cities united in litigation filed in Arkansas state court against opioid manufacturers, distributors, and retailers. More recently, the counties and cities have created, constituted, and launched ARORP to distribute the counties and cities’ opioid abatement funds from opioid settlements and bankruptcies. Arkansas counties and cities have consistently and persistently focused their considerable effort on their singular goal of abating the opioid crisis among Arkansas communities, families, and citizens with opioid use disorder.

ARORP was ready to get to work when funds began arriving from certain settlements in 2022, and in less than a year since its launch, the partnership has invested in scores of evidence-based abatement projects around the state. Through the work of the partnership, Arkansans are seeing lives saved and restored. But Arkansas remains in the savage grip of the opioid crisis, and much work remains to be done to abate the crisis. Largely due to the limited quantity of abatement funding made available to date, ARORP has been forced to deny most abatement funding requests. The communities, families, and people of Arkansas desperately need substantial investment

in residential and outpatient treatment, naloxone and medication-assisted treatment, recovery housing, peers, diversion and prevention programs and personnel, neonatal care and treatment for neonatal abstinence syndrome, recovery services, treatment for incarcerated persons, evidence-based data collection and research, and other programs and strategies to abate the opioid crisis in Arkansas.

ARORP agrees that “justice is about more than money”⁴—but this is a bankruptcy case, and the resource made available through the Plan and the Sackler Family contribution is money. ARORP knows how to invest money to abate the opioid crisis and save lives in Arkansas. The dire needs in Arkansas cover the entire continuum of care for Arkansans with opioid use disorder, and the vast array of local services impacted by the opioid crisis. ARORP can confidently predict that the funding provided through the Plan will save and restore scores, and potentially hundreds, of lives in Arkansas. That sort of justice for Arkansans is the very mission of ARORP. *Amici* pray that the Court affirms the judgment of the Court of Appeals for the Second Circuit and approves the Plan with the utmost alacrity.

4. See Brief for Ellen Isaacs as Respondent Supporting Petitioner, at 14-15. Whether the Plan is “just” regarding the Sackler Family is not ARORP’s concern, but ARORP notes that the Plan provides no criminal immunity to the Sackler Family, so the Plan does not prevent a prosecutor from pursuing criminal charges against a member of the Sackler Family if warranted.

ARGUMENT

I. Before Purdue filed for bankruptcy protection, and consistent with the bankruptcy Plan later developed below, the governments of Arkansas sought to abate the opioid crisis in their communities.

From the inception of their litigation against Purdue and others in early 2018, the governments of Arkansas rallied behind a singular mission: to abate the opioid crisis plaguing communities, families, and Arkansans suffering from opioid use disorder. In the *Prayer for Relief* in their original complaint⁵, the Arkansas governments prayed for “[p]rospective damages so that the State, Counties, and Cities can **comprehensively intervene in the Arkansas Opioid Epidemic**” in a bevy of specific ways designed to: (a) prevent opioid use, injury, and death; (b) treat and prevent opioid misuse and addiction; (c) reduce the supply of opioids, and (d) reduce crime and involuntary commitments associated with opioid misuse and addiction.⁶

The governments of Arkansas never wavered from their focus on prospective abatement of the opioid crisis at the local level. The Arkansas governments united in their litigation against Purdue and other opioid manufacturers, distributors, and retailers—and litigated intensely for years before an Arkansas state court.⁷ The case went to

5. See Complaint, *State of Arkansas et al v. Purdue Pharma L.P. et al*, Crittenden County (Ark.) Circuit Court No. 18CV-18-268 (March 15, 2018).

6. *Id.* at 139-140 (emphases in original).

7. The docket in *State of Ark. et al v. Purdue Pharma L.P. et al* contains hundreds of entries, including thousands of pages of briefing and notations of many hearings, several of which were

the Arkansas Supreme Court and back—twice⁸—but did not go to trial before most defendants filed for bankruptcy protection or agreed to national settlements. Purdue filed its notice of bankruptcy in the Arkansas case in September 2019—over four years ago.

The Arkansas governments’ *Prayer for Relief* expressly and implicitly acknowledges that the opioid crisis is a local problem that urgently demands local solutions. There is now widespread agreement about the local nature of the opioid crisis, and the necessity that abatement solutions be deployed at the local level.⁹ The *Prayer for Relief* is entirely consistent with the subsequently developed core strategies and approved uses authorized under the Plan in this case—which likewise recognize the

full days of oral argument. The docket does not reflect the bulk of discovery conducted in the Arkansas case.

8. *State of Ark. v. Ellington*, Ark. Supreme Court No. CV-18-296 (writ petition denied April 6, 2018); *State of Ark. v. Cephalon, Inc.*, Ark. Supreme Court No. CV-20-48 (writ petition denied February 20, 2020).

9. See, e.g., *United States v. Robinson*, 892 F.3d 209, 215 (6th Cir. 2018) (“the district court noted that the opioid epidemic had been extraordinarily burdensome on local law enforcement and the local health-care system”); Elizabeth Pérez-Chiqués et al., *What Do Local Governments Need to Address Public Health Crises?*, ROCKEFELLER INST. OF GOV’T (Apr. 16, 2020) (noting that local governments have been on the front lines of health crises from yellow fever and cholera outbreaks to the more recent opioid epidemic); Elizabeth Weeks & Paula Sanford, *Financial Impact of the Opioid Crisis on Local Government: Quantifying Costs for Litigation and Policymaking*, 67 U. Kan. L. Rev. 1061 (2019) (attempting to quantify the opioid epidemic’s “significant impact on . . . local governments responsible for serving and protecting those affected individuals.”).

fact that abatement of the national opioid crisis must occur at the state and local level.¹⁰ The abatement visions of the Arkansas governments and the Plan both seek substantial investment in naloxone, residential and outpatient opioid abuse treatment, medication-assisted treatment, diversion and prevention training and education, law enforcement and first responder training and personnel, and treatment for incarcerated people.¹¹

The core strategies and approved uses in the Plan are far more detailed than the *Prayer for Relief*—they are a blueprint for state and local governments and officials to abate the opioid crisis in communities across the country. The state and local governments *that are charged with abating the opioid crisis in their communities* overwhelmingly support the bankruptcy Plan. State and local governments seek the same goal as the Plan: abatement of the opioid crisis. The federal government, on the other hand, has little role in the abatement strategy detailed in the Plan. The U.S. Trustee should not be permitted to effectively veto the Plan and override the overwhelming support of thousands of state and local governments that will implement the Plan.

10. *See* Doc. 3232 (July 15, 2021), at 21-23 of 89 (core strategies) and 24-34 of 89 (approved uses).

11. *Id.*

II. Recognizing the severe need in their communities, the local governments of Arkansas formed a partnership to abate the opioid crisis—ARORP.

In the summer of 2021, in anticipation of abatement funds from opioid settlements and bankruptcies, the Arkansas governments executed the Arkansas Opioids Memorandum of Understanding (“Arkansas MOU”),¹² which encourages the Arkansas governments to pursue abatement funding through settlements and bankruptcies, provides for an equal split of opioid settlement and bankruptcy funds among the state (1/3), counties (1/3), and cities (1/3) of Arkansas, and commits all Arkansas governments to use settlement and bankruptcy funds for approved purposes to abate the opioid crisis in Arkansas. As with the *Prayer for Relief*, the “approved purposes” in the Arkansas MOU are entirely consistent with the core strategies and approved uses authorized by the Plan in this case.¹³

In October 2021, the consortium of Arkansas counties and cities offered testimony before the bankruptcy court below, via affidavit¹⁴ and live testimony of counsel, in support of the Plan. Counsel explained the severity of the opioid crisis in Arkansas. Arkansas has had the second highest opioid prescription rate in the country across multiple years.¹⁵ Opioids are the top-selling class

12. www.arorp.org/wp-content/uploads/2022/11/Arkansas-Opioids-MOU-Executed-July-2021.pdf.

13. *See* Doc. 3232.

14. Doc. 4016-1 (Oct. 22, 2021).

15. *Id.*, ¶ 11.

of prescription drug in Arkansas and more than twice as prevalent as the next highest-selling prescription drug class.¹⁶ Arkansas overdose deaths ballooned 262% from 2000 to 2016,¹⁷ and overdose deaths in Arkansas have continued to increase in recent years—despite being significantly underreported.¹⁸

In Arkansas, the burden of responding to the opioid crisis falls disproportionately on local governments, and the impact is felt most intensely and severely at the local level.¹⁹ Four-fifths of Arkansas law enforcement agencies and officers are local, the 911 system is operated by a network of county and city officials, EMS services are provided by local governments, and fire departments are local organizations—when an Arkansan calls 911, every responder, from dispatch to law enforcement to EMS and fire departments, is typically a person employed by and acting on behalf of a local government.²⁰ Additional local officials are often involved after first responders, from local medical facilities such as county health departments and crisis stabilization units, to county jails—which frequently house Arkansans with opioid use disorder who cycle through the criminal justice system repeatedly.²¹ Arkansas county jails have seen an increase in population that is largely attributable to the opioid

16. *Id.*

17. *Id.*, ¶ 12.

18. *Id.*, ¶ 13.

19. *Id.*, ¶ 16.

20. *Id.*

21. *Id.*, ¶ 17.

crisis, yet county jails in Arkansas lack the resources to provide detainees suffering from opioid addiction with the type of long-term treatment necessary to curb their addiction.²² Arkansas has also seen an increase in juvenile delinquencies, dependent-neglected juveniles, families in need of services, and involuntary commitments—all connected to the opioid crisis.²³

Unfortunately, in Arkansas, “counties are unable to dedicate funds to robust abatement programs that could, over the long-term, reduce the strain caused by opioids”—and “[w]ithout adequate funding for abatement, the opioid crisis will continue to plague Arkansas counties and their residents for many years to come.”²⁴ Counsel’s affidavit concluded:

Arkansas counties and cities need funding as soon as possible to implement programs and strategies to abate the Arkansas opioid epidemic. A delay in the abatement funding provided under the Plan will simply perpetuate the status quo with continuing strain on Arkansas’s local governments and their residents—translating into more overdoses and more lives lost. The sooner more abatement funding can be harnessed to help local governments, the more rapidly local governments can deploy interventions and treatments that will save lives, restore families and communities, and

22. *Id.*

23. *Id.*, ¶ 18.

24. *Id.*, ¶ 19.

create a post-opioid future in Arkansas. With so much at stake, delay comes at too high a cost.²⁵

Today, Arkansas remains awash in opioids, opioid overdoses, and the many established harms of the opioid crisis. Data continues to confirm the breadth and depth of the Arkansas opioid crisis, and the dire need for abatement. While overdose deaths increased nationwide in 2020, Arkansas is one of only 10 states where overdose deaths increased by more than 40% in 2020 compared to 2019.²⁶ Overdose deaths in Arkansas increased significantly again in 2021, from 547 to 618 deaths—which is over 20 deaths per 100,000 Arkansans, a new record high overdose rate for Arkansas.²⁷

Arkansas is currently home to a rising incidence of newborns experiencing withdrawal syndrome due to opioid use and misuse during pregnancy, significant strain on local first responders as they encounter increasingly complex problems associated with synthetic opioids, and an overburdened child welfare system as more children enter foster care due to parental addiction and overdose deaths.²⁸ The tide has not turned on the established harms of the opioid crisis in Arkansas, and new harms continue to rise to the surface.

25. *Id.*, ¶ 27.

26. *Principles to Guide Spending of Opioid Litigation Settlement Funds in Arkansas*, Arkansas Center for Health Improvement (ACHI) (Aug. 1, 2022), p. 4.

27. See www.artakeback.org/the-arkansas-opioid-dashboard.

28. See *supra* n. 26.

In 2022, the counties and cities of Arkansas continued preparations to abate the opioid crisis by creating a Qualified Settlement Fund (“Arkansas QSF”), supervised by an Arkansas court, to receive and manage settlement and bankruptcy funds directed to abatement efforts in Arkansas counties and cities.²⁹ The counties and cities executed distribution agreements, which are exhibits to the Arkansas MOU.³⁰ The distribution agreements create ARORP, the program for disbursing settlement funds to abate the opioid crisis across the local communities of Arkansas in a manner consistent with approved purposes in the Arkansas MOU, settlement agreements, and court orders, including the Plan below.³¹

29. See Order Establishing the Arkansas Opioids Qualified Settlement Fund, Appointing the Fund Administrator, and Appointing the Custodial Bank (June 13, 2022), in *Crittenden County, Ark. and City of West Memphis, Ark. v. Perry County Food & Drug, Inc.*, Crittenden County (Ark.) Circuit Court No. 18CV-22-355.

30. See www.arorp.org/wp-content/uploads/2022/11/Counties-Distribution-Agreement-without-exhibits.pdf and www.arorp.org/wp-content/uploads/2022/11/Cities-Distribution-Agreement-without-exhibits.pdf. The Counties and Cities’ Distribution Agreements (with exhibits) are also filed of record in the QSF case as Exhibits B and C to the Motion for Supplemental Distribution Order filed on July 31, 2023.

31. *Id.* at 1 & 3-5.

III. ARORP has demonstrated that with substantial abatement funding, we can save and restore lives, and abate the opioid crisis.

ARORP officially launched on November 4, 2022, with the first meeting of the ARORP advisory board.³² Since then, ARORP has dedicated itself to the goals set forth in the counties and cities' *Prayer for Relief* against Purdue and other defendants, the Arkansas Opioids MOU, and the core strategies and approved uses authorized under the Plan in this case.³³

The first project approved by ARORP in November 2022 is the ARORP Naloxone Community Hero program,³⁴ under which approved "Naloxone Heroes" provide naloxone training and distribute naloxone in Arkansas communities to persons at risk of overdose and their families and friends who wish to carry naloxone. ARORP initially

32. www.arorp.org/arkansas-opioid-recovery-partnership-announces-funding-opportunities-for-abatement-programs/. The ARORP advisory board has 12 members with a range of qualifications and perspectives including clinical and research expertise, medicine, finance, law and law enforcement, public service with local governments, and lived experience with addiction. *See* www.arorp.org/our-team/.

33. The core strategies and approved uses under the Plan (Doc. 3232 at 21-34) are substantively similar to the document commonly referred to as "Exhibit E" to multiple national opioid settlement agreements. ARORP requires compliance with Exhibit E for all approved abatement projects. *See* www.arorp.org/about/.

34. www.arorp.org/learn-more-naloxone-community-hero-project/.

funded a \$500,000 purchase of naloxone³⁵ for the program, then funded a second \$500,000 purchase of naloxone,³⁶ and ARORP recently purchased \$675,000 more naloxone³⁷ for distribution to Arkansas law enforcement agencies. To date, ARORP has funded 41 Naloxone Community Heroes in 37 Arkansas counties, and ARORP has distributed naloxone to 236 Arkansas law enforcement agencies. In total, ARORP has purchased 36,052 naloxone kits and distributed 33,468 naloxone kits throughout Arkansas—over 66,000 individual dosage units of naloxone in the hands of Arkansans who need access to the life-saving opioid antagonist, in a state with a population of roughly three million people. ARORP is facilitating the counties and cities’ achievement of section (a) of their *Prayer for Relief*, which is also a core strategy of the Plan.

ARORP has approved a handful of other statewide projects. ARORP recognized the statewide need for resources and support for family members of Arkansans who have overdosed, both for grief and prevention, because family members of people who overdose are at high risk of developing substance use disorders themselves. ARORP has provided funding to the Hope Movement Coalition, which assigns a case manager to each overdose family to assess the critical needs of each family member, assigns a peer parent or peer sibling to provide emotional and grief support, provides real-time access to additional peer supports, maintains a website with resources for healing after loss, and assists families with obtaining insurance

35. See www.arorp.org/progress/; ARORP2022-001.

36. See www.arorp.org/progress/; ARORP2023-047.

37. See www.arorp.org/progress/; ARORP2023-121.

and funding to address mental and physical health needs arising from grief, PTSD, and substance abuse.³⁸ This is the first and only resource available in Arkansas with a core mission of supporting the *hundreds of families who lose loved ones to opioid overdose every year in Arkansas*. In less than a year, an extraordinary community has come together to support Arkansas families who endure the unimaginable pain of losing a loved one to overdose.

ARORP also now funds the Arkansas prescription drug take-back program.³⁹ The Arkansas take-back program is hugely successful—despite being the least-populated state in its four-state DEA region (Alabama, Arkansas, Louisiana, and Mississippi), Arkansas accounts for 66% of the total weight of prescription drugs collected in the region, and Arkansas averages more participating law enforcement agencies than the other three states combined.⁴⁰ In 2023, with funding and leadership from ARORP in partnership with the DEA, Arkansas collected over 26,000 pounds of prescription drugs for safe disposal.⁴¹

ARORP is collaborating with stakeholders and developing additional projects for statewide prevention in the future—including a project to target the Arkansas counties with the highest opioid prescription rates with efforts designed to reduce those prescribing rates.

38. See www.arorp.org/progress/; ARORP2022-012.

39. See www.arorp.org/progress/; ARORP2022-08.

40. www.artakeback.org/take-back/about-take-back/.

41. www.arorp.org/arkansas-dea-collects-staggering-amount-of-drugs-for-national-prescription-drug-take-back-day/.

Although it has declined in recent years, according to the latest data published by the CDC, Arkansas *still* has the second highest opioid dispensing rate in the country at 75.8 opioid prescriptions per 100 Arkansans.⁴² And Arkansas still has several high-population counties with rates over 100 prescriptions per 100 Arkansans.⁴³ ARORP plans to do something about this.

ARORP has solicited applications from community coalitions throughout the state, through ARORP's partnership with the Community-Based Advocacy-Focused Data-Driven Coalition-Building Association (CADCA) and the Coalition Partnership Empowerment (COPE) program. ARORP has provided funding to 13 community coalitions covering 15 Arkansas counties, to empower and train the coalitions and equip them to apply for federal funding as Drug-Free Communities.⁴⁴ The 13 coalitions have each agreed to mentor a future coalition as ARORP seeks to have a community coalition in each of the 75 Arkansas counties—but ARORP-funded coalitions cover only 20% of Arkansas counties so far.

ARORP has invested substantially in overdose response teams (ORTs), which have a specific funding application⁴⁵ available on ARORP's website. An ORT

42. www.cdc.gov/drugoverdose/rxrate-maps/state2020.html.

43. www.cdc.gov/drugoverdose/rxrate-maps/county2020.html.

44. See www.arorp.org/progress/; ARORP2023-027, 2023-060, 2023-062, 2023-064, 2023-065, 2023-066, 2023-067, 2023-068, 2023-071, 2023-072, 2023-073, 2023-074, & 2023-075.

45. www.arorp.org/funding-opportunities/.

is an overdose crime scene team consisting of a criminal investigator and a peer recovery specialist. The investigator works at the scene to investigate the supplier for potential prosecution, while the peer recovery specialist provides counseling and information for the overdose victim and others, with follow-up and tracking of these individuals to promote treatment and recovery. The peer also provides connections to care including grief counseling for families, and education about substance abuse in the community and schools.⁴⁶ ARORP has funded seven ORTs with jurisdictions covering 23 Arkansas counties.⁴⁷ ARORP's goal is to have an ORT serving each of the 75 Arkansas counties.

ARORP has made progress, but ARORP's work has only just begun—with a long way to go. ARORP has funded 358 new recovery beds for Arkansans with opioid use disorder at facilities in 10 Arkansas counties⁴⁸—but 65

46. www.arorp.org/learn-more-overdose-response-team/.

47. *See* www.arorp.org/progress/; ARORP2022-002 (Hot Springs Police Department ORT); 2023-021 (Craighead County Sheriff's Office ORT); 2023-097 (Benton Police Department ORT); 2023-098 (9th West Drug Task Force ORT); 2023-123 (North Little Rock Police Department ORT); 2023-125 (McGehee Police Department ORT); 2023-126 (Faulkner County Sheriff's Office ORT).

48. *See* www.arorp.org/progress/; ARORP2022-006 (to expand recovery housing in Johnson County); 2023-026 (to expand recovery housing in Logan County); 2023-052 (to expand recovery housing in Boone County); 2023-061 (to open a transitional living home in Sebastian County); 2023-083 (to expand recovery housing in Faulkner County and Perry County); 2023-092 (to expand recovery housing in White County); 2023-093 (to expand recovery housing in Independence County); 2023-117 (to expand recovery housing in Pulaski County and Lonoke County).

Arkansas counties have received no funding for recovery housing. ARORP has funded recovery community organizations/centers in three Arkansas counties⁴⁹—but 72 counties have no recovery community organization or center funded by ARORP. ARORP has funded residential treatment services in three Arkansas counties⁵⁰—but 72 counties have no residential treatment services funded by ARORP. Of necessity, ARORP has been very selective to maximize and stretch its limited abatement funds. Residential treatment, recovery housing, and recovery infrastructure are expensive investments—ARORP has only just begun to transform the treatment and recovery landscape in Arkansas.

ARORP has achieved everything described above and more in less than a year, using less than \$20 million in abatement funding from settlement and bankruptcy payments received by Arkansas counties and cities to date.⁵¹ ARORP is proud of the abatement projects and programs that have been created and funded so far, and the tremendous progress already underway. ARORP is working with urgency to aid the communities, families, and people of Arkansas who continue to be ravaged by

49. See www.arorp.org/progress/; ARORP2022-009 (to open an RCO in Craighead County); 2022-023 (to open a community crisis center in Johnson County); 2023-053 (to support a recovery and crisis center in Sevier County).

50. See www.arorp.org/progress/; ARORP2022-022 (to expand outpatient treatment services in Pulaski County); 2023-026 (to expand residential treatment services in Logan County); 2023-093 (to support residential faith-based treatment services in Independence County).

51. See www.arorp.org/progress/ (see “Funding Totals” at bottom of page; \$19,075,442.33 when last visited October 16, 2023).

the opioid crisis. But with each celebratory moment, each hurdle overcome, each life saved and each life restored, ARORP is saddened by the reality that comprehensive abatement of the Arkansas opioid crisis is necessarily limited by the abatement dollars available to ARORP from opioid settlements and bankruptcies.

IV. The Plan should be affirmed because the Plan will save and restore lives and abate the opioid crisis across America.

While ARORP has made considerable investments, ARORP has denied over \$85 million in proposed funding for abatement projects in Arkansas—**ARORP has denied more than *four times* the amount of abatement funding that ARORP has approved since ARORP launched less than one year ago.**⁵² With each project denial, ARORP specifies the reasons for the denial—some applications fail to meet requirements such as evidence-based effectiveness and sustainability. But at bottom, the reason for the collective denial of such a staggering amount of requested funding is the limited funding available to ARORP. The most glaring funding limitation is the sad truth that despite the efforts of the Arkansas governments and state and local governments nationwide, not a single dollar has been contributed to abating the Arkansas opioid crisis from Purdue, the Sackler Family, or the bankruptcy Plan.

ARORP's investments to date, while promising, are insufficient to abate the opioid crisis in Arkansas. ARORP

52. www.arorp.org/wp-content/uploads/2023/10/ARORP-Denial-Log.pdf (total at bottom of log; last visited October 16, 2023).

has been unable to dedicate funds in several areas of critical need for Arkansas communities, families, and opioid-addicted citizens. No ARORP funds have been invested to increase access to medication-assisted treatment (MAT) in Arkansas, nor to provide MAT education and training to healthcare providers and officials. No ARORP funds have been invested to provide evidence-based treatment and recovery services specifically to pregnant and postpartum women, nor to expand treatment for neonatal abstinence syndrome among newborns in Arkansas. ARORP has invested only a tiny fraction of what is needed in treatment services for the broader population and the incarcerated population in Arkansas, in comprehensive wrap-around services for individuals in recovery, and in prevention and education. While ARORP is doing its best with the hand it has been dealt thus far, ARORP is far from achieving the comprehensive abatement goal that undergirds the core strategies and approved uses authorized by the Plan in this case.⁵³

The Sackler Family contribution of \$5.5 to \$6 billion to the Plan will provide roughly \$50 million to Arkansas, for abatement of the Arkansas opioid crisis.⁵⁴ ARORP has performed admirably with less than half that much funding, but the bulk of abatement work lies ahead, and the critical significance of these funds for Arkansas communities and families, and Arkansans with opioid use disorder, cannot be understated. The overwhelming support of this Plan by state and local governments nationwide indicates the collective belief of American

53. *See* Doc. 3232 at 21-34 of 89.

54. *See id.* at 35 of 89 (Arkansas allocation percentage is 0.9779907816%).

governments that the Plan is better for the governments and their citizens than the alternative of pursuing civil claims against the Sackler Family in courts. Local officials in Arkansas and nationwide are on the frontlines—unlike the U.S. Trustee—and they understand what is at stake with this Plan. They understand that if the Sackler Family funds are lost, then lives will be lost—including lives that could have been saved and restored.

The U.S. Trustee and the faction of bankruptcy professors and organizations who support the U.S. Trustee’s position have little to say about the undisputed reality that lives are at stake with the Court’s decision in this case. State and local leaders across America are ready to abate the harms of the opioid crisis, working together, and using Sackler Family money. ARORP has demonstrated that state and local government coalitions can marshal swift and effective distribution of abatement funds to comprehensively intervene in the opioid crisis. This is what the Arkansas governments have sought for years—because their citizens desperately need help. If ARORP can do what it has already done with less than \$20 million, imagine what can be done with \$50 million. Imagine what can be done across America with over \$5 billion.

The U.S. Trustee’s assertion that “plan proponents” have not “presented a compelling need” for the Plan, is exactly incorrect.⁵⁵ The compelling need is undeniable in Arkansas, and throughout the country. The compelling need is why governments have invested years of effort and preparation in furtherance of their mission to abate

55. *See* Petitioner’s Brief at 47.

the opioid crisis in their communities. The need is not just compelling—it is a matter of life and death for many families and citizens of Arkansas, and America. The Plan should be affirmed because the Plan will save and restore lives, and the Plan will abate the opioid crisis.

CONCLUSION

This Court should affirm the judgment of the Court of Appeals for the Second Circuit and affirm the bankruptcy Plan with the utmost alacrity, so that communities, families, and people across America can recover from the opioid crisis.

Respectfully submitted,

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