

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 Writ of Certiorari to the
United States Court of Appeals for the Second Circuit**

**BRIEF OF AMICI CURIAE
THE RECOVERY ADVOCACY PROJECT,
THE KENNEDY FORUM, END OVERDOSE,
AND TEAM SHARING INC.
IN SUPPORT OF RESPONDENTS**

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INTEREST OF THE AMICI CURIAE¹

THE RECOVERY ADVOCACY PROJECT is a non-profit grassroots recovery advocacy organization that is working to change the way America thinks about recovery by advocating nationwide for better, sound substance use disorder recovery policies.

THE KENNEDY FORUM is a national organization seeking to achieve systemic reform in the U.S. health-care system by advancing evidence-based practices, policies, and programming for the prevention and treatment of brain illnesses — specifically mental health and addiction, and rallying the mental health community around a common set of principles: Fully implement the 2008 parity law, bring business leaders and government agencies together to eliminate issues of stigma, work with providers to guarantee equal access to care, ensure that policymakers have the tools they need to craft better policy, and give consumers a way to understand their rights.

END OVERDOSE is a national 501(c)3 non-profit organization working to end drug-related overdose deaths through education, medical intervention, and public awareness.

TEAM SHARING INC. is a national organization of parents who have lost a child to Substance Use Disorder. Through social networking, community act-

¹ Pursuant to Sup. Ct. R. 37.6, the undersigned counsel for *amici curiae* state that no party's counsel authored this brief in whole or in part, and that no party, party's counsel, or other person, other than *amici* or its counsel, contributed money that was intended to fund preparing or submitting this brief.

ivism, grief services and advocacy, Team Sharing provides support and friendship to grieving families while working to raise awareness of Substance Use Disorder and its impact on our communities.

Amici have an interest in this matter because of their commitment to providing safe, effective, and comprehensive recovery support (such as recovery housing, recovery coaching, peer support, recovery community centers, etc.), harm reduction strategies such as naloxone distribution and overdose response training, family support services, community-based mental health services, and advocacy for people with a substance use disorder and mental health challenges. Providers and advocacy groups seek to increase and improve housing and peer support, fund treatment options, increase advocacy and support for mental health parity enforcement and addiction recovery services, fund harm reduction strategies, increase supportive services for families impacted by addiction and overdose, and contribute to the remediation process as the Reorganization Plan is finalized.



INTRODUCTION AND SUMMARY OF THE ARGUMENT

Amici are non-profit organizations across the country that are dedicated to fighting the overdose and substance use disorder crisis ravaging the United States. They are not direct litigants in the judicial proceedings here or elsewhere related to the overdose crisis, and they have received no assurance that *any money* from the Purdue Pharma estate will be provided

to them directly or their organizations or the programs or policies for which they advocate. Many of the individuals who work with and for these non-profit organizations have lived experience with substance use disorder and recovery and have had their own lives and families shattered by the overdose crisis. *Amici* implore the Court to approve the settlement so they may continue their work to prevent further avoidable loss of life, and so the scores of victims may finally be properly compensated. There are over 120,000 individuals and their families who have filed claims against Purdue's estate, and been directly injured by the overdose crisis that was spurred the Sackler family's greed. Their suffering should be honored with approval of the settlement.

This brief will not address the legal arguments that *Amici* understand are being raised by the many other parties who are fighting against the United States Trustee's lone objection to the settlement, but instead *Amici* will address (a) the scope of the current overdose crisis, (b) the need for more funding to fight the crisis, and (c) why abatement dollars from the Purdue Pharma bankruptcy are desperately needed now and should not be delayed any further. In short, sacking the settlement would send all parties in the Purdue Pharma bankruptcy back to the morass of litigation and more misery that will help no one other than Purdue, the Sacklers and their lawyers.

The overdose crisis has ravaged the country for the past two decades. The COVID-19 pandemic has drawn a new focus on the importance of attending to mental and behavioral health, but it also has exacerbated existing barriers to, and health disparities in, accessing addiction care. Purdue Pharma and the

Sackler family contributed to and profited from their opioids that caused our current crisis, and it is vital that their profits be channeled to undoing some of the damage they wrought. This Court can free billions of dollars in funding that is necessary to save the lives of those most impacted by substance use disorders and educate future victims and their families to prevent further devastation. The substantial funds the Sackler family intends to contribute offer a meaningful opportunity to support victims and prevent future lives lost through increased access to treatment services, methadone, naloxone, community engagement and education opportunities, and other support services.

While those in opposition to *Amici's* position contend the Sacklers would literally be getting away with murder, no pound of flesh exacted from the Sacklers will bring back the hundreds of thousands of American lives cut short by overdose. In the two years since this reorganization plan was originally approved, over 200,000 more Americans have lost their lives due to a preventable overdose while waiting for the system changes these funds could accomplish if distributed as intended. Time is of the essence, as this country continues to hemorrhage lives at its own expense—not the Sacklers'—while 2023 data already shows a nearly 3% increase in overdose deaths and this settlement remains in limbo.² And nothing would

² In 2021, total overdose deaths were 106,669. See Press Release, Centers for Disease Control and Prevention (“CDC”), National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%* (May 11, 2022), https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm. In 2022, total overdose deaths were 109,680. See National Institutes of Health, National Institute on Drug Abuse, *Drug Overdose Death Rates* (June 30, 2023), <https://nida>.

preclude the Sacklers from answering to criminal charges for their wrongful conduct. Approval of the reorganization plan would allow the federal government to redirect its efforts and resources from litigating against the Sackler settlement to criminally indicting and prosecuting the Sackler family.



ARGUMENT

I. THE UNITED STATES IS IN THE MIDDLE OF AN OVERDOSE CRISIS.

The overdose crisis has claimed more than 645,000 lives from 1999 to 2021.³ Drug overdose deaths, already at record highs, spiked in 2020, and increased an additional 16% from 2020 to 2021, largely driven by opioid use disorder.⁴ Indeed, in this same one-year period, opioid deaths jumped 15%, and more than 75% of all overdose deaths in 2021 involved

nih.gov/research-topics/trends-statistics/overdose-death-rates (last visited Oct. 17, 2023). Currently, 2023 overdose deaths are trending up 2.5%, with deaths for 12 months leading up to May 2023 at 112,024 based on predicted value (due to under-reporting). See CDC, National Center for Health Statistics, *Provisional Drug Overdose Death Counts* (updated Feb. 15, 2023), <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

³ Wide-ranging online data for epidemiologic research (WONDER). Atlanta, GA: CDC, National Center for Health Statistics; 2021, <http://wonder.cdc.gov>.

⁴ CDC, *Understanding the Opioid Epidemic*, <https://www.cdc.gov/opioids/basics/epidemic.html#:~:text=The%20number%20of%20drug%20overdose,rates%20increased%20by%20over%2015%25>, (last visited Oct. 7, 2023)

opioids.⁵ As of 2021, 220 people die each day from opioid overdose,⁶ the equivalent of 9/11 magnitude loss of life less than every two weeks. These figures continue to rise in the aftermath of the COVID-19 pandemic and as the synthetic opioid fentanyl floods the nation's communities.⁷ Overdose deaths involving fentanyl or fentanyl analogs increased more than 22% from 2020 to 2021.⁸ And in 2022, 107,081 died, with more than 68% of such deaths involving synthetic opioids.⁹

Notably, there is an overwhelming correlation between historical use of a prescription drug, such as Purdue Pharma's OxyContin, and opioid use disorder in modern users.¹⁰ Seventy-five percent (75%) of

⁵ *Id.*

⁶ *Id.*

⁷ In 2022, the Drug Enforcement Agency ("DEA") seized the equivalent of 395.7 million lethal doses of fentanyl, and in 2023, it seized more than 287 million lethal doses, representing a combined total of more than 122 million pills and more than 22,700 pounds of fentanyl powder. DEA, *One Pill Can Kill*, <https://www.dea.gov/onepill> (last visited Oct. 8, 2023). Now, 7 out of every 10 pills seized by the DEA contains a lethal dose of fentanyl. *Id.*

⁸ CDC, *Fentanyl*, <https://www.cdc.gov/opioids/basics/fentanyl.html> (last visited Oct. 8, 2023).

⁹ Kariisa Mbabazi, et al., *Illicitly Manufactured Fentanyl-Involved Overdose Deaths with Detected Xylazine—United States, January 2019–June 2022*, 72 MORBIDITY AND MORTALITY WEEKLY REPORT 721 (June 30, 2023), <https://www.cdc.gov/mmwr/volumes/72/wr/mm7226a4.htm#print> (last visited Oct. 9, 2023).

¹⁰ National Institute on Drug Abuse ("NIDA"), *Prescription Opioids and Heroin Research Report: Prescription Opioid Use is a Risk Factor for Heroin Use*, <https://nida.nih.gov/publications/research-reports/prescription-opioids-heroin/prescription-opioid-use-risk-factor-heroin-use#:~:text=Of%20those%20who%20began%20using%20opioids%20in%20the%20last%20year,10>

persons who developed an opioid use disorder in the 2000's reported that their first use was of a prescription opiate.¹¹ And it is easy to trace today's problems to the proliferation of opioid prescriptions throughout the United States. From 1991 to 2012, opioid prescriptions jumped from 76 million to 255 million, with overdose deaths during this same time period spiking more than fourfold.¹²

The societal impact of opioid use disorder is not measured in lives alone. It has placed a substantial burden on the economic health and progress of the country. As of 2017, the costs attributable to opioid use disorder and opioid overdose ran an estimated \$1.02 trillion, including healthcare costs, criminal justice costs, and lost productivity.¹³

20abusing,opioid%20was%20a%20prescription%20drug.&text=Examining%20national%2Dlevel%20general%20population,prescription%20opioids%20prior%20to%20heroin (last accessed Oct. 7, 2023).

¹¹ *Id.*

¹² NIDA, *Prescription Opioids and Heroin Research Report: Increased Drug Availability is Associated with Increased Use and Overdose*, <https://nida.nih.gov/publications/research-reports/prescription-opioids-heroin/increased-drug-availability-associated-increased-use-overdose> (last accessed Oct. 7, 2023).

¹³ Curtis Florence, et al., *The Economic Burden of Opioid Use Disorder and Fatal Opioid Overdose in the United States, 2017*, 218 DRUG & ALCOHOL DEPENDENCE 1 (Jan. 2021), <https://www.sciencedirect.com/science/article/abs/pii/S0376871620305159?via%3Dihub> (last accessed Oct. 8, 2023).

II. COMMUNITIES NEED MORE CAPACITY AND FUNDING, NOT LESS.

Public sentiment towards persons suffering from substance use disorder has evolved over the last two decades. Now, there seems to be nearly universal consensus that the United States can no longer take a reactionary and punitive approach to the nation's drug problem, and instead must treat substance use disorder as a medical condition. Unfortunately, substance use disorders, like comorbid mental health disorders, routinely encounter barriers to effective treatments in the form of stricter coverage limits, bureaucratic hoops, lack of access, high costs, and continued stigmatization.

At the outset of this crisis 20 years ago, people could pretend that it was someone else's problem, and not their concern. It is the rare person in our nation today that this crisis has not directly or indirectly impacted—family, friend, community, social circle, school, Native American Tribe. Our national crisis is progressing unabated with far reaching effects and has been exacerbated over the past few years with the thunderous one-two punch of the COVID-19 pandemic and the fentanyl/synthetic opioid scourge. The pandemic had a disproportionately deleterious impact on those in recovery and in need of help,¹⁴ erecting an unforeseen barrier for people in recovery to access their Medications for Opioid Use Disorder treatment

¹⁴ Rina Ghose, et al., *Impact of the COVID-19 Pandemic on Opioid Overdose Deaths: a Spatiotemporal Analysis*, 99(2) J. URBAN HEALTH 316, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8856931/#:~:text=The%20increase%20in%20opioid%20overdose,and%20patterns%20of%20drug%20use>. (last accessed Oct. 9, 2023).

(“MOUD”), meet with their support groups and recovery organizations, or receive medical attention in response to an overdose. Fentanyl has fueled the rate of overdoses, becoming the number one cause of opioid overdose deaths in the United States.¹⁵ Young adults, teenagers, school age children, even day care infants remain at risk.¹⁶

Whereas the *prescription* opioid problem may have at one time been viewed as the “suburban white” epidemic,¹⁷ the current state of the overdose crisis has disproportionately impacted blacks,¹⁸ Hispanics,

¹⁵ Nadine Yousif, *How the fentanyl crisis’ fourth wave has hit every corner of the US*, BBC NEWS, <https://www.bbc.com/news/world-us-canada-66826895> (last accessed Oct. 9, 2023).

¹⁶ Al Jazeera, *Bags of fentanyl discovered beneath ‘trap floor’ of NYC daycare centre*, <https://www.aljazeera.com/news/2023/9/22/bags-of-fentanyl-discovered-beneath-trap-floor-of-nyc-day-care-centre> (last accessed Oct. 9, 2023).

¹⁷ Steven Ross Johnson, *Strung out in suburbia: Opioid drug crisis hits the suburbs*, MODERN HEALTHCARE, <https://www.modernhealthcare.com/article/20170325/MAGAZINE/303259990/strung-out-in-suburbia-opioid-drug-crisis-hits-the-suburbs> (last accessed Oct. 9, 2023).

¹⁸ *In re Purdue Pharma L.P.*, No. 19-23649, *Motion to Intervene on Behalf of the NAACP* (Bankr. S.D.N.Y. Aug. 7, 2020) [ECF No. 1555]; *id.* at Ex. 2, *Substance Abuse and Mental Health Serv. Administration: The Opioid Crisis and the Black/African American Population: An Urgent Issue*, Publ’n No. PEP20-05-02-001, Off. Behav. Health Equity, U.S. Dep’t. Health & Hum. Serv. Admin. (2020); *id.* at Ex. 3, Clairmont Griffith, et al., *The Effects of Opioid Addiction on the Black Community*, 10 Int’l J. Collaborative Rsch. on Internal Med. & Pub. Health, 843 (2018); *id.* at Ex. 4, Stephanie Schmitz Bechteler, et al., *White-washed: The African American Opioid Epidemic* (The Chicago Urban League, Research and Policy Center 2017).

Native American Tribes,¹⁹ and other communities that have historically been the target of discrimination for, among other things, their sexual orientation or sexual preference²⁰. Those battling depression, anxiety, bipolar disorder, and other mental illnesses have also been especially vulnerable to substance use disorder.²¹ People with mood and anxiety disorders are three times more likely to misuse opioids.²² Inmates in our nation's jails have been severely impacted,²³ and those

¹⁹ See generally, *In re Purdue Pharma L.P.*, No. 19-23649, *Motion Seeking Appointment of an Official Committee of Native American and Native American Affiliated Creditors* (Bankr. S.D.N.Y. Oct. 9, 2019) [ECF No. 276].

²⁰ For example, approximately 6.7% of sexual minority adults in 2020 misused opioids in the previous year, compared to 3.6% of the overall adult population. See NIDA, *Substance Use and SUDS in LGBTQ* Populations*, <https://nida.nih.gov/research-topics/substance-use-suds-in-lgbtq-populations> (last accessed Oct. 10, 2023).

²¹ 51% of all opioid prescriptions went to individuals with mental health disorders. Matthew A. Davis, et al., *Prescription Opioid Use among Adults with Mental Health Disorders in the United States*, 30(4) J. AM. BD. FAM. MED. 407, 410 (2017), <https://www.jabfm.org/content/jabfp/30/4/407.full.pdf>.

²² D. Feingold, et al., *The Association Between Severity of Depression and Prescription Opioid Misuse Among Chronic Pain Patients With and Without Anxiety: A Cross-Sectional Study*, 235(1) J AFFECT DISORD. 293-302 (August 2017), <https://www.ncbi.nlm.nih.gov/pubmed/29660645>.

²³ Roughly 1.4 million people in the United States are held in state and federal prisons, and more than 600,000 are released from custody each year. Additionally, nearly two-thirds of all adults in custody in the United States have a documented substance use disorder. Daniel M. Hartung, et al., *Fatal and Nonfatal Opioid Overdose Risk Following Release from Prison: A Retrospective Cohort Study Using Linked Administrative Data*, <https://www>.

who leave incarceration are unable to access treatment and services to recover and maintain recovery when they return to their families and communities.²⁴ The average life expectancy in the United States is decreasing—between 2014 and 2017, life expectancy declined across all ethnic and racial groups for the first time in six decades.²⁵ We have a mental health and substance use disorder crisis in America that must be addressed immediately with adequate funding.

While the Mental Health Parity and Addiction Equity Act (“MHPAEA”) promotes equal access to treatment by prohibiting disparate coverage limitations and other practices intended to limit, deny, or make impracticable coverage or access to these vital services, the MHPAEA suffers from an enforcement vacuum. And insurance companies, in efforts to control skyrocketing costs, including from the drug epidemic, continue to erect substantial barriers to equal access to treatment. The CDC recommends widespread expansion of existing tools to help combat the problem. It advises that communities must: (i) expand distribution and use of naloxone and increase overdose prevention education; (ii) educate communities about access to and availability of treatment; (iii) early intervention for

[sciencedirect.com/science/article/abs/pii/S2949875923000218?via%3Dihub](https://www.sciencedirect.com/science/article/abs/pii/S2949875923000218?via%3Dihub) (last accessed Oct. 9, 2023).

²⁴ People recently released from incarceration face a risk of opioid overdose 10 times greater than the general public, according to researchers at Oregon Health & Science University, Oregon State University, and the Oregon Department of Corrections. *See supra* n.23.

²⁵ Steven Woolf, et al., *Life Expectancy and Mortality Rates in the United States, 1959-2017*, 322(20) JAMA (2019), <https://jamanetwork.com/journals/jama/article-abstract/2756187>.

persons at risk for overdose; and (iv) improve detection of overdose outbreaks for a coordinated response effort.²⁶ These recommendations require resources.

State, local, and tribal communities and non-profit and grassroots organizations, like *Amici*, must fill the gaps in care and treatment, by providing prevention education, outreach, overdose reversal and other harm reduction strategies, treatment advocacy and recovery services on the front lines while our institutions continue to grapple with wider policy approaches. These communities and organizations need immediate, substantial funding to continue their missions, widen their reach, and save American lives. The Trustee should not be tying up billions of dollars in litigation when that money can help fund these efforts.

For example, in 2018, the U.S. Surgeon General advocated for improving awareness and availability of naloxone, the highly-effective opioid overdose reversal medication.²⁷ It is estimated that improved distribution of naloxone could reduce opioid overdose deaths by 21%.²⁸ Yet, the Department of Health and Human Services reports “a significant, persistent gap in our response” to making naloxone available to those who need it.²⁹ While naloxone can now be pur-

²⁶ See *supra* n.7.

²⁷ Dep’t of Health & Human Services, *Naloxone: The Opioid Reversal Drug that Saves Lives*, <https://www.hhs.gov/system/files/naloxone-coprescribing-guidance.pdf> (last accessed Oct. 8, 2023).

²⁸ NIDA, *Naloxone for Opioid Overdose: Life Saving Science*, <https://nida.nih.gov/publications/naloxone-opioid-overdose-life-saving-science> (last accessed Oct. 8, 2023).

²⁹ *Supra* n.27.

chased over the counter, even this practice—a clear step in the right direction—remains cost and access prohibitive. Not only does a single dose of Narcan run about \$45.00, but it is simply unrealistic that a person suffering with an opioid use disorder, who may be unhoused or suffering from a mental health disorder, is going to walk into Target to buy naloxone.

Now, and for the foreseeable future, the overwhelming majority of life saving naloxone is distributed free of charge directly into the hands of people who use drugs where they are located or in urban or rural community centers by organizations like Recovery Advocacy Project's direct community outreach and engagement affiliate, The Voices Project.³⁰ Indeed, by year-end 2022, The Voices Project, in conjunction with Direct Relief International, distributed more than 625,000 free doses of naloxone in 21 states across the country. Even more significantly, non-profits like The Voices Project and many others, can provide point-of-contact training to opiate users, their friends, and families to help them identify the signs and symptoms of overdose and learn how to safely and properly administer the overdose reversal drug should it be needed.

III. ABATEMENT DOLLARS FROM THE PURDUE BANKRUPTCY ESTATE CANNOT BE DELAYED ANY FURTHER.

No amount of money can make up for the loss of a life, but the billions of dollars that should flow from the plan may prevent the next loss of life and improve

³⁰ The Voices Project, *Programs and Services*, <https://voicesriseup.org/Programs-Services> (last accessed Oct. 8, 2023).

the quality of life for those still with us. The abatement programs, community recovery organizations, harm reduction organizations, rehabilitation areas, peer support programs, hospitals, medication assisted treatment centers, family programs, educational programs, programs for the incarcerated, and boots-on-the-ground organizations in this country need money *now* to prevent today's person in need from becoming tomorrow's next death statistic. These organizations lack sufficient funding to adequately carry out their jobs and save lives. Some have been forced to close their doors to those in need,³¹ while others have had to scale back on spending and services, which reduces their efficacy.

The fiscal impact of the crisis is staggering. According to the CDC, the U.S. economic cost of opioid use disorder (\$471 billion) and fatal opioid overdose (\$550 billion) during 2017 totaled *\$1.021 trillion*.³² The CDC estimated that the cost per case of opioid use disorder was \$221,219—a sum derived by adding the following components: health care (\$14,705); substance use treatment (\$1,660); criminal justice (\$6,961); lost productivity (\$14,707); and reduced

³¹ See, e.g., Karen Brooks Harper, et al., *Nonprofit drug treatment center for low-income Texas teens shuts amid opioid crisis*, THE TEXAS TRIBUNE, <https://www.texastribune.org/2023/09/27/texas-teens-drug-treatment/> (last accessed Oct. 9, 2023).

³² Feijun Luo, et al., *State-Level Economic Costs of opioid Use Disorder and Fatal Opioid Overdose—United States, 2017*, 70 MORBIDITY AND MORTALITY WEEKLY REPORT 541 (2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7015a1.htm#:~:text=Cost%20estimates%20per%20case%20for%20components%20of%20opioid%20use%20disorder,reduced%20quality%20of%20life%2C%20%24183%2C186>. (last accessed Oct. 9, 2023).

quality of life (\$183,186).³³ The Sacklers' billions are desperately needed if we are going to address this cost at more than \$200,000 per person, and save people from the perils of overdose.

At this point, our suffering citizens cannot afford to wait any longer. Americans need help, and they need it now. Dr. Rahul Gupta, Director of the White House Office of National Drug Control Policy ("ONDCP") has said the following: "At this time, less than 1 out of 10 people in the United States who need addiction care get it."³⁴ Another study has similarly concluded that "approximately 86.6% of individuals with OUD [opioid use disorder] nationwide who may benefit from MOUD treatment do not receive it. MOUD receipt increased across states over the past decade, but most regions still experience wide gaps between OUD prevalence and MOUD receipt."³⁵ In America's prisons, where treatment and recovery services lack necessary funding, "MOUD (buprenorphine, metha-

³³ *Id.*

³⁴ Dep't of Health & Human Servs., Press Release, *Biden Administration Announces \$1.5 Billion Funding Opportunity for State opioid Response Grant Program: Funding for States and Territories Will Help Address the Nation's Overdose Epidemic* (May 19, 2022), <https://www.hhs.gov/about/news/2022/05/19/biden-administration-announces-15-billion-funding-opportunity-state-opioid-response-grant-program.html#:~:text=%E2%80%9CAt%20this%20time%2C%20less%20than,drug%20trafficking%2C%E2%80%9Dsaid%20Dr.> (last accessed Oct. 9, 2023).

³⁵ Noa Krawczyk, et al., *Has the Treatment Gap for Opioid Use Disorder Narrowed in the U.S.?: A Yearly Assessment from 2019 to 2019*, 110 INT'L J. OF DRUG POLICY (Dec. 2022), <https://www.sciencedirect.com/science/article/pii/S0955395922002031?via%3Dihub> (last accessed Oct. 9, 2023).

done, or naltrexone) was available in at least one prison in approximately 90% of the state prison systems and all three medications were available in at least one prison in 62% of systems. However, MOUD provision was limited to subsets of prisons within these systems: 15% provided buprenorphine, 9% provided methadone, 36% provided naltrexone, and only 7% provided all three. Buprenorphine and methadone were most frequently provided to pregnant women or individuals already receiving these at admission, whereas naltrexone was primarily used at release. Funding was the most frequently cited barrier for all medications.”³⁶

Despite these facts from our federal government about the devastating impact of the overdose crisis and the significant need for funding abatement efforts, *Amici* have watched in horror as close to \$7 billion sits in Purdue and the Sackler family’s coffers for two years while the federal government fights a legal battle against overwhelming support by the claimants. It is nothing but cruel irony that upon the catastrophic aligning of stars (an overdose crisis + a COVID-19 pandemic + a fentanyl scourge), our federal government has chosen to *delay* needed money to fund abatement of the crisis. For the families of the 230 people who die each day, and for the tens of thousands of Americans still suffering with a substance use disorder or are in recovery, this Court should approve the settlement. The *Amici* organizations are without the resources needed to save our communities from

³⁶ Christy K. Scott, *The Impact of the Opioid Crisis on U.S. State Prison Systems*, 9 HEALTH & JUSTICE 17 (2021), <https://healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-021-00143-9#Fun> (last accessed Oct. 9, 2023).

the cost of another death, another funeral, another family shattered, another friend isolated, another small business deprived of a valued employee.

IV. FAILURE TO APPROVE FUNDING FOR ABATEMENT AND VICTIM COMPENSATION WOULD BE CRUEL AND UNJUST.

The *Amici* organizations are comprised of many individuals who have more than just a professional stake in the outcome of this settlement—this is an incredibly personal issue given their lived experience with substance use disorder and recovery, and the impact of overdose in their immediate families. The settlement and reorganization plan represents an opportunity for *Amici* to continue their work to prevent further avoidable loss of life with the billions of dollars allocated towards abatement of the overdose crisis, while the \$750 million allocated to individual victims and their families would allow for long awaited compensation. For the spouses, children, parents, siblings, families of the thousands of overdose victims who have suffered the loss of their loved ones, and who now suffer through this protracted litigation, and for the *Amici* organizations who are on the frontlines of the overdose crisis bearing witness to its persistent carnage, withholding approval of the settlement and distribution of funds would be cruel and unjust.

V. THE SACKLERS SHOULD ANSWER FOR THEIR CRIMES IN CRIMINAL COURT.

The Trustee's objection to the plan fails to appreciate both the substantial good that can be achieved by directing the abatement dollars to those on the front lines now, as well as the additional remedies that

can be taken to ensure that families and individuals devastated by the overdose epidemic achieve some measure of justice. Nothing under consideration would allow the Sacklers to get away with murder. *Amici* of course have no knowledge of the federal government's presumed on-going investigation of the Sackler family, but they do know for certain there is nothing in this Plan that will prevent a future criminal prosecution. For the scores of lives cut short by Sackler greed, *Amici* expect and demand that the federal government redirect its resources to criminally indicting and prosecuting the Sackler family with the same zeal that it has litigated its objection to the plan.



CONCLUSION

The overdose crisis has contributed to hundreds of thousands of lives lost—nothing can or will make up for that devastating figure. However, with intentional planning, the settlement dollars being contributed by Purdue and the Sackler family can make an impact and undo some of the harm they have caused. These dollars can help alleviate the overdose epidemic's dramatic human and economic toll. While gaining access to these life-saving dollars, the states and the federal government retain their ability to seek criminal charges for the actions that contributed to the overdose crisis.

Amici organizations are witness to the devastation and misery wrought by the overdose crisis, and they know how important funding is to abate the crisis. The Trustee's objections should not prevent the settle-

ment plan from proceeding. Funding the settlement plan and encouraging the timely distribution of funds is in the best interest of the group as a whole, and punitive measures are best meted out in criminal court. *Amici* urge the federal government to criminally indict and prosecute the Sackler family, and they urge this Court to affirm the Second Circuit Court of Appeal's judgment approving the settlement.

Respectfully submitted,

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