

Supreme Court pauses Purdue Pharma settlement plan worth billions



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The Supreme Court on Thursday put on hold a proposed bankruptcy plan for Purdue Pharma that would allocate billions of dollars to help ease the nation's opioid crisis — a plan that would also shield the family that owns the company from future lawsuits.

In a brief unsigned order, the court granted the Justice Department's request to temporarily block the plan. The department is challenging whether Sackler family members — who themselves did not file for bankruptcy — can be spared from future litigation over their role in fueling the nation's crushing opioid crisis. The court agreed to review the case and consider whether U.S. bankruptcy code authorizes such agreements. Arguments are set for December.

Purdue Pharma's bankruptcy case will unfold before the high court as the United States continues to contend with an addiction crisis initially fueled by opioid pain pills flooding the country. Today, illicit synthetic fentanyl, which is up to 100 times stronger than morphine, is the catalyst for an overdose crisis killing more than 100,000 Americans each year.

Thursday's decision means settlement money meant for thousands of victims and their relatives and for local and state governments could be delayed. Attorney Edward Neiger, who represents thousands of family members affected by the opioid crisis, called the delay disappointing for victims but he said the expedited schedule shows the Supreme Court "appreciates the urgency of the matter, including the plight of the victims waiting for recovery and the terrible toll the opioid crisis at large is still taking on our country."

The appeal to the Supreme Court comes more than two months after the U.S. Court of Appeals for the 2nd Circuit greenlit the bankruptcy plan, saying the Sacklers being shielded from lawsuits was needed to “ensure the fair distribution” of the settlement money. Under the negotiated deal, the Sacklers would pay up to \$6 billion over nearly two decades to help alleviate the crisis. The settlement plan could ultimately be worth more than \$10 billion, Purdue Pharma has said.

The Office of the U.S. Trustee, a branch of the Department of Justice, is challenging the lower court’s decision. The Justice Department argues in its filing to the high court that shielding the Sacklers is “an abuse of the bankruptcy system,” and that allowing the appellate court’s decision to stand would leave in place “a road map for wealthy corporations and individuals to misuse the bankruptcy system” to avoid liability from lawsuits.

“This case is a clear-cut candidate for this Court’s review,” Solicitor General Elizabeth B. Prelogar wrote in the motion asking for a stay.

Purdue Pharma, in a statement Thursday, said it was optimistic that the Supreme Court will agree in the legality of the plan.

“Even so, we are disappointed that the U.S. Trustee, despite having no concrete interest in the outcome of this process, has been able to single-handedly delay billions of dollars in value that should be put to use for victim compensation, opioid crisis abatement for communities across the country, and overdose rescue medicines,” the company said.

Plaintiffs say the public health crisis was fueled in part by Purdue Pharma’s aggressive marketing of OxyContin even as evidence mounted that the pills were highly addictive. Drugmakers, distribution companies and pharmacies have faced thousands of lawsuits from victims, cities and states over the toll inflicted by pain pills. The litigation has resulted in sweeping settlements and the allocation of more than \$50 billion to governments across the country to help fight the opioid crisis.

Purdue Pharma, facing thousands of lawsuits, filed for Chapter 11 bankruptcy in 2019 — but members of the Sackler family did not.

Two years later, a New York bankruptcy judge approved a negotiated deal that initially called for Sackler family members to contribute more than \$4 billion while shielding them from future claims. The deal drew objections from the Justice Department, and some states, which pointed out that the family had received more than \$10 billion in payouts from the company; the Sacklers said nearly half of that went toward taxes.

A federal district judge in December 2021 overturned the deal. After further negotiations, the Sacklers agreed to increase the payout to as much as \$6 billion over 18 years to victims, survivors and governments, including to states that previously opposed the deal. Under the bankruptcy plan, the Sackler family would relinquish control of the company, which will be refashioned as one geared solely toward easing the opioid crisis.

After the May appellate decision paved the way for the settlement, the Justice Department asked the high court to pause the bankruptcy plan to prevent a “piecemeal implementation” involving the payout of billions of dollars over more than a decade to a “vast number” of claimants, including all 50 states and the District, according to its request.

Purdue Pharma pointed out an “overwhelming public interest in the plan — which now has all 50 States on board and 97% of almost 5,000 governmental entities voting in favor” of the deal, the company said in its court filing.

Attorneys representing more than 60,000 people who have claims against Purdue also opposed the government’s appeal, arguing settlement money from the existing plan is desperately needed to help ease the opioid crisis. Up to \$750,000 will go directly to affected families.

“These funds, which the Sackler Family members are providing in exchange for releases, are critically needed now. The opioid epidemic continues to wreak havoc in the United States,” lawyers wrote in a filing to the Supreme Court.

The case may help settle long-running legal conflicts over how companies use the bankruptcy system to avoid lawsuits.

Ralph Brubaker, a bankruptcy law scholar at the University of Illinois College of Law, said appellate courts have for decades split on whether parties who haven’t declared bankruptcy can be “released” from potential lawsuits through a bankruptcy reorganization. Brubaker — who has long advocated for the Supreme Court to take up the issue — believes bankruptcy code does not allow such measures, which, he argues, are unconstitutional and infringe on someone’s right to sue.

“This is one of the most important and consequential issues of bankruptcy law, from both a practical and a fundamental-justice perspective, to ever come before the Supreme Court,” Brubaker said via email on Thursday.