



The Prosecutor

newsletter from
Mat Heck, Jr.
Prosecuting Attorney



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Summer/Fall 2018

Prosecutor Heck Files Lawsuits Against Opioid Manufacturers and Distributors

On July 25, 2018, Prosecuting Attorney Mat Heck, Jr. and Mary E. Montgomery, the Chief of the Prosecutor's Civil Division, announced the filing of two lawsuits against opioid manufacturers and distributors, asserting claims related to the deceptive marketing, prescribing, distribution and sale of opioids in Montgomery County.

Assistant Prosecutor Mary Montgomery said, "Sadly, as our citizens know, Montgomery County has been in far too many national news stories discussing the tragic number of overdoses that have taken our citizens' lives. Deemed the 'Overdose Capital of America,' citizens of every background in our community have been affected by the opioid crisis. Today, we have made it clear that we intend to hold those responsible accountable for the devastation they have caused in our community. We seek justice and long-term solutions to ensure current and future generations are protected from such an epidemic."

The defendants are: Purdue Pharma L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company Inc.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc. N/K/A Janssen Pharmaceuticals Inc.; Janssen Pharmaceutica, Inc. N/K/A Janssen Pharmaceuticals, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals, Inc.; Mallinckdrot, LLC; SPECGX, LLC; Cardinal Health, Inc.; McKesson Corporation; AmerisourceBergen Drug Corporation; Walgreens Corporation; and Jane Does 1-50.

Prescription opioids are narcotics. They are derived from and possess properties similar to, opium and heroin, and they are regulated as controlled substances. While opioids can dampen the perception of pain, they also can create an addictive, euphoric high. Because the medical community recognized these dangers, they originally used opioids cautiously and sparingly, typically only for short-term acute pain or for relief in end-of-life care. Such brief use limited the need for escalating doses and the risk of addiction. Consequently, the market for prescription opioids was sharply constrained.

The lawsuits describe how, in order to expand their market and profits, the defendants initiated, and maintained for years, a deceptive marketing scheme that was intentionally designed to change the perception of opioids. This scheme was to permit and encourage the long-term use of opioids for widespread chronic conditions like back pain, migraines, and arthritis.



Pictured: Mary E. Montgomery, Civil Division Chief, addresses the press to announce the filing of the lawsuit against opioid manufacturers and distributors.

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Defendants used both direct marketing and advertising (by seemingly independent third parties) to spread false and misleading statements about the risks and benefits of long-term opioid use.

Compounding these harms, manufacturers and distributors turned a blind eye to suspicious orders and shipments of opioid painkillers, thereby enabling the funneling of drugs into the black market. As increased volumes of opioids flooded Montgomery County, and other communities nationwide, increased rates of addiction, overdoses, and deaths soon followed.

The defendants' conduct violates the Ohio Corrupt Practices Act and constitutes a public nuisance, civil conspiracy, negligence and unjust enrichment. The Ohio Corrupt Practices Act provides civil liability for the injuring of another through criminal acts. As a result, the County asserts that by increasing opioid prescriptions and use, defendant collectively fueled the opioid epidemic and significantly harmed the county and its residents.

Both distributor and manufacturing defendants have common law and statutory duties to provide adequate controls against the illicit sales of their products. Each Defendant is legally mandated to monitor for, report, and reject suspicious orders of controlled substances into the County. Such orders include, for example, orders of opioids that exceed reasonable volume, are of an unusual frequency, or that raise other red flags. Yet, Defendants shipped orders that they knew or should have known were being diverted or used for non-legitimate medical purposes. The distributors supplied opioids in quantities that they knew or should have known exceeded any legitimate market for opioids – even the wider market for chronic pain – and ignored red flags of suspicious orders of these drugs in Montgomery County.

We assert that the deceptive and misleading marketing of opioids by the manufacturers and the careless, even reckless, distribution of opioids into the County by the distributors correlate directly to skyrocketing addiction, overdose, and death; black markets for diverted prescription opioids; and an associated rise in heroin and fentanyl abuse by individuals who could no longer legally acquire – or simply could not afford – prescription opioids.

The Montgomery County Prosecutor's Office

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Opioid Impact in Montgomery County

- In 2017, the media dubbed Montgomery County the “overdose capital of America” after the County recorded the most overdose deaths, per capita, in the United States during the first half of that year.
- According to data collected in the first six months of 2017, Montgomery County ranked second in Ohio for the highest rate of drug overdose visits to emergency rooms; five of the top ten counties were located in West Central Ohio.
- Opioid addicts are so familiar with the potential for overdose that many choose to use drugs in public places, such as gas stations, big box stores, and grocery store restrooms, where they can be found and revived.
- Rising heroin addiction and overdose rates in Montgomery County correlate with the opioid crisis as individuals often turn to heroin when they can no longer legally acquire or afford opioid painkillers. According to data from the CDC, Montgomery County had more opioid prescriptions than people each year from 2006 to 2015.
- The prescription rate remained high – 92.9 opioid prescriptions for every 100 people – (including children) in the County – in 2016.
- In just six years, from 2010 to 2016, fatal drug overdoses have claimed the lives of 1,517 people in the County; 559 people died of opioid overdoses in 2017 alone.
- In the first three months of 2018, the Montgomery County Regional Dispatch Center received 335 calls for drug overdoses.
- The coroner has described the local morgue as “full every night.” In addition, the coroner’s office has been obliged at times to rent rooms in local funeral homes.
- The County has also had to rent refrigerated trucks, which were parked behind the morgue, to keep the overload of bodies.
- Measured over the five-year period from 2009 to 2014, Montgomery County has the second highest per capita death rate from drug overdoses in the state of Ohio.
- Since 2010, the County saw a 104% increase in the number of people who died from unintentional drug overdoses.
- In 2015, Montgomery County Emergency rooms treated 293 heroin overdoses – more than 6 times as many as in 2012.
- From January 1, 2017, to June 30, 2017, Montgomery County residents made 2,565 emergency room visits for drug overdoses – an average of 14.2 per day.

Prosecutor's Office Welcomes New Staff

On July 9, 2018, **Lisa M. Bruder** was appointed as an Assistant Prosecuting Attorney, assigned to the Child Protection Unit of the office. Lisa received her undergraduate degree from the University of New York at Buffalo in 1995, majoring in Political Science. She received her law degree in 1998 from the University of Akron School of Law. Lisa is originally from the Town of Tonawanda, New York.

On July 9, 2018, **Alisonn R. Nickles** joined the staff as a Legal Secretary, assigned to the Child Protection Unit of the office. Alisonn is a graduate of Fairmont High School, and received her Criminal Justice degree from Sinclair Community College in 2017. Before joining the prosecutor's office, she worked in the private sector, and has performed volunteer work for Dayton Public Schools and for The House of Bread.

On July 30, 2018, **Sharalie E. Albanese** joined the staff as a Legal Secretary, assigned to the Criminal Case Management Section of the office. In 2011, she received her BA in History with a minor in English, from the University of Maryland University College in Adelphi, Maryland. In 2016, she received her Associates of Science in Paralegal Studies from Sinclair Community College. Sharalie is a Notary Public and a Paralegal. She has performed volunteer work as a paralegal for Advocates for Basic Legal Equality in Immigration Law.

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JAMES CARGLE SENTENCED TO 41 YEARS IN PRISON

On May 24, 2018, **James Cargle**, 31, was sentenced to a total of 41 years in prison after his convictions on counts of rape, kidnapping, and felonious assault.

On Sunday, November 24, 2016, a female victim told neighbors that she had been kidnapped two days earlier and had been held captive inside a canine cage in the basement of a home on Sheridan Avenue in Dayton.

That same day, witnesses called 911 after seeing a nude woman, bound with a rope, fall out of the trunk of a moving car on Kenilworth Avenue in Dayton. Paramedics transported her to the hospital with significant injuries.

Investigators learned that this second victim had been kidnapped, beaten, and raped inside a garage on Fountain Avenue in Dayton.

On December 7, 2016, three co-defendants, James Cargle, Cassidy Lake, and Jennifer Rice, were indicted by the Montgomery County Grand Jury.

On May 3, 2018, after a trial, the jury found Cargle guilty as charged of counts of rape by force, felonious assault, kidnapping, kidnapping for sexual activity, and kidnapping to terrorize.

The 41 year prison sentence the defendant received was the maximum, consecutive total amount of prison time the defendant could have received.

Co-defendant Jennifer Rice was convicted of Kidnapping, and was sentenced to 5 years in prison for her actions.

Co-defendant Cassidy Lake was convicted of Kidnapping and Attempted Rape. She was sentenced to 5 years in prison on each count, to be served concurrently.

Cargle is currently incarcerated at Lebanon Correction Institution in Lebanon, Ohio. His stated prison term expires on November 12, 2057, when he will be 70 years old.

The case was prosecuted by APAs Erin Claypoole and Joshua Shaw.

“Major Drug Offender” Sent to Prison for 11 Years

On August 16, 2018, **RAPHAEL OJEZUA**, 35 years of age, was sentenced to a total of 11 years in prison after his convictions for drug offenses.

On October 8, 2015, Deputies were dispatched to the defendant’s residence on Elderberry Avenue in Harrison Township on a reported shooting. Once inside, they found that the defendant had been shot. As the deputies searched the crime scene, they uncovered over 10 pounds of heroin. In addition, they located methamphetamines and cocaine.

On July 10, 2018, the defendant was found guilty as charged of possession of heroin, aggravated possession of drugs, and possession of cocaine. Such a large amount of heroin qualifies the possession of heroin charge to have a Major Drug Offender (MDO) Specification attached.

In addition to spending the next 11 years in the penitentiary, the defendant was also ordered to pay mandatory fines totaling \$17,500. The case was prosecuted by APAs Erin Claypoole and Ann Gramza.

Local Man Indicted for Filing Fraudulent Property Deeds

On July 2, 2018, Dale Inman was indicted on 25 felony counts related to the filing of fraudulent property deeds in Montgomery County. Over a period of several months in 2017, the defendant filed 16 “quit claim” deeds on properties he located that were either vacant, owned by a deceased individual, or were owned by elderly homeowners. Once he had established “ownership” of the properties, he then tried to sell those properties to unsuspecting buyers.

Seven of the properties, including homes in Dayton, Trotwood, Harrison Township, and other locations across the county, were owned by deceased persons. One of the houses was owned by an elderly homeowner. In that instance, the homeowner was shocked to learn that the deed to her home had been transferred to another owner without her consent or knowledge.

Real estate deed fraud has become more prevalent recently. The Ohio Revised Code, section 5302.11, sets out the law on Quit Claim Deeds. Historically, Quit Claim Deeds are used to transfer property among family members, or as a way to give someone property. As there is no legal requirement that the signing of a Quit Claim Deed be witnessed by a government employee, criminals have begun targeting properties because of the ease of using a Quit Claim Deed. The deed becomes valid when it is notarized by a public notary and filed with the Auditor’s Office. Once complete, the property is then titled in the name of the criminal.

In some cases, there are more than one victim - the homeowners who have their properties fraudulently taken from them, and the buyers who might have purchased properties and made significant costly improvements, only to find that they don’t legally own the property.

You can reduce the risk of becoming a victim by periodically checking all of your owned property with the Auditor’s Office to insure there has been no fraudulent activity. Additionally, **Montgomery County Recorder Brandon C. McClain** has created a Fraud Alert Notification System. Once registered, you will receive notification if there are any changes to your real estate records. For more information, or to sign up, go to https://www.mcoho.org/government/elected_officials/recorder/fraud/index.cfm

Prosecutor's Office Welcomes Staff (Con't)

On August 27, 2018, **Candace J. Crear** was appointed as an Assistant Prosecuting Attorney, assigned to the Child Protection Unit of the office. Candace received her undergraduate degree from Boston University in 2003, majoring in Political Science, with a minor in American History. She received her law degree in 2010 from the Ohio State University Moritz College of Law. Candace previously was a Cuyahoga County Assistant Prosecutor. She is originally from Cincinnati.

On August 27, 2018, **Ashley N. Kochel** joined our staff and was appointed as the Records and Evidence Manager. Ashley previously worked for the office as a legal secretary, but left to work at a private law firm.

On August 29, 2018, **Collin B. Showe** was appointed as an Assistant Prosecuting Attorney, assigned to the Civil Division of the office. Collin received his undergraduate degree from Miami University in Oxford, Ohio in 2011. He received his law degree from the Case Western Reserve University School of Law in Cleveland in 2015. Collin is originally from Columbus, Ohio. Previously he practiced real estate litigation.



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