

The logo for the Opioid Justice Team features the text "OPIOID JUSTICE TEAM" in a serif font, centered between two horizontal lines. Above the text is a dark blue silhouette of a roof or a mountain peak. The entire logo is set against a light yellow background.

## OPIOID JUSTICE TEAM™

**September 10, 2019**

### **Purdue Pharma deal leaves opioid-dependent babies out in the cold**

*Representatives of America's NAS children pledge to fight on*

On August 27, 2019 [it was reported for the first time that Purdue and its lawyers met, on August 20, 2019, in Cleveland, Ohio](#) before the MDL Judge, the Plaintiffs and the Attorney Generals representing some 10 States to offer upwards of \$12 billion to settle to the nearly 2,000 lawsuits filed by municipalities and Native American tribes and these States.

What sounds like a positive step forward, following so close behind [Oklahoma's landmark verdict against Johnson & Johnson](#) for its role in America's current drug crisis is, in actuality, a bombshell to [the team of attorneys, non-profit advocates and medical experts](#) fighting for the more than 200,000 children born with Neonatal Abstinence Syndrome (NAS) because their mothers used prescription opioids while pregnant.

“Both these actions, simply put, offer settlement deals with a slew of governmental entities but completely leave these infants and children born with life-long medical issues out in the cold,” said Celeste Brustowicz of the Opioid Justice Team. “We are deeply involved in complex litigation to create a medical monitoring trust fund for babies diagnosed with NAS, but both these legal actions leave to chance any hope for these innocent victims because they take the easy way out and offer a blanket settlement in favor of government general funds.”

There are more than [35 state class actions on behalf of NAS children](#) filed and awaiting a specific recognition in the opioid multi-district litigation currently before federal Judge Dan Polster. Those representing these

children have for years explained [why a settlement track replicating the infamous Big Tobacco settlement would not help these children.](#)

Many [legal experts](#) have also weighed in, warning that many of the government entities which reached a record \$206 billion settlement with the leading cigarette makers are using the settlement monies for general fund needs, ignoring pleas by health experts that substantial dollars must be spent on smoking cessation programs, especially those aimed at children.

[Medical experts](#) are in agreement that NAS babies will suffer from some combination of social, interactive, behavioral, cognitive and educational deficits, from the time of birth onwards; nonetheless, substantial intervention improves the quality of life and outcomes for child and caregiver alike, said health representative Brent Bell. The most immediate crisis arises from the fact that the most severe NAS symptoms occur while these babies are in Neo-Natal Intensive Care Units, including uncontrollable trembling and seizures, gastrointestinal complications, and sleep abnormalities.

“The Purdue Pharma settlement plan is an outrage because it fails in any way to address that crisis,” said Mr. Bell. “In fact, the medical maxim ‘dose makes the poison’ is a theory of awarding damages utilized by Purdue’s proposal which is why it is facile and appears egregiously and hopelessly flawed. Under Purdue’s current proposal these child victims of the opioid crisis get nothing.”

As reported, the plan calls for Purdue Pharma to declare Chapter 11 bankruptcy and emerge restructured as a for-profit public benefit trust. Purdue claims the value of the trust would include the provision of more than \$4-billion in drugs to cities, counties and states (the ‘in-kind’ payment component), together with the profits to be derived from the sale of drugs, totaling an additional \$7-8 billion (the ‘direct payment’ component).

“The fund is scheduled to expire after 10 years, allowing Purdue and the Sackler family, alike, to go on as if nothing had ever happened,” said Ms. Brustowicz.

“It sounds like a financial coup for governments that have borne substantial costs from the opioid epidemic, but it’s only a good deal if you forget about these NAS babies who wouldn’t get a dime under this plan,” said Greg Williams, the former director of Facing Addiction and an addiction recovery advocate.

A legal team continues to work with the Judge Polster towards establishing a designated settlement class for NAS children, said Ms. Brustowicz. “Negotiations are ongoing”, she added.

“Although we are confident that our babies will ultimately prevail and receive justice, they haven’t yet gained status as a negotiated settlement class, which is why the news of the separate deal for Purdue Pharma is so unsettling,” says Ms. Brustowicz.

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