



Opioid Litigation Proposal for Brevard County



The Opioid Epidemic In Brevard County

An overview of the current opiate crisis,
its relationship to pharmaceutical
company practices and the strategic
plan for a successful resolution.





The Opioid Epidemic in Brevard County: Florida Statistics



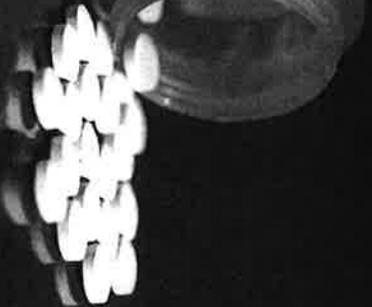
Current State of Crisis in Florida

- Opioid related deaths in Florida increase year after year.
- In 2016, the Florida Medical Examiners Commission reported 5,275 opioid-related deaths, reflecting a 35% increase over 2015. That represents 14 deaths from opioids per day.
- Florida Department of Law Enforcement shows 60% increase in total prescription drug deaths in Tallahassee between 2015 and 2016.¹
- In 2015, Brevard County had 121 opioid related deaths.

Attorney Communication – Privileged and Confidential

1. <http://www.tallahassee.com/story/news/2017/12/02/opioid-forum-held-monday-night/914087001/>

The Opioid Epidemic in Brevard County: Florida Statistics



Effect on Florida's Children

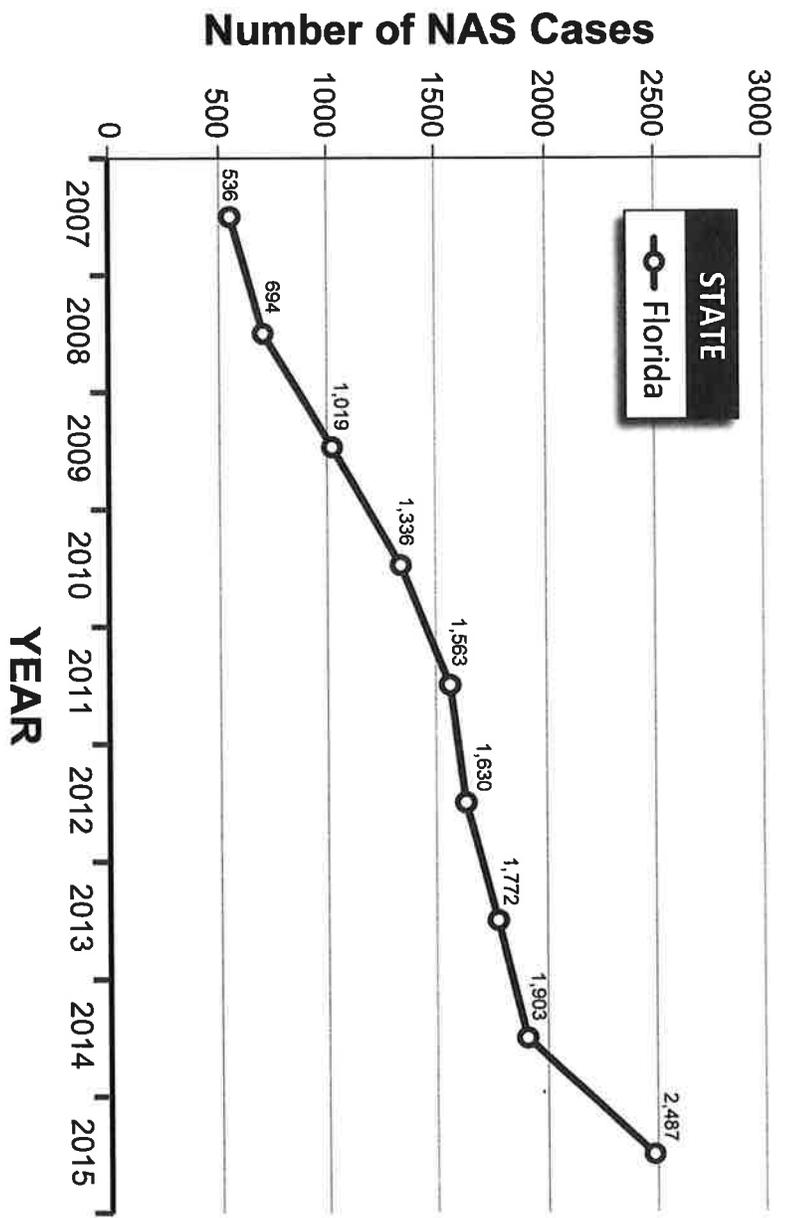
- More than 4,000 babies were born addicted to opioids in Florida last year, an increase of over 1,000 percent from a decade ago.
- Substance abuse played a role in two-thirds of the cases where children were removed from their homes within 30 days of birth last year.
- And there's been a 38 percent increase in the number of children under the age of 5 who have been removed from homes because of substance abuse in the past four years.



The Opioid Epidemic in Brevard County: Florida Statistics



Number of Neonatal Abstinence Syndrome Cases in Florida: 2007-2015



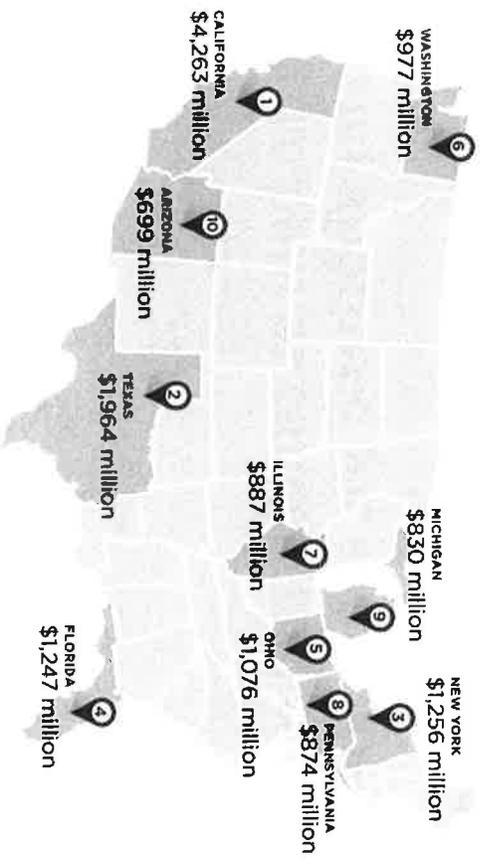


The Opioid Epidemic in Brevard County: Florida Statistics



Current State of Crisis in Florida

- Costs attributed to opioid abuse in Florida are estimated to have totaled over \$1.2 billion in a single year, or 5% of the total health care costs in the state.¹



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¹ Health Care Costs from Opioid Abuse: A State by State Analysis, Matrix Global Advisors, LLC, April 2015



The Opioid Epidemic in Brevard County:

The Causes of the Opioid Crisis

- Opioids are narcotic pain relievers.
- Work by blocking the pathway of pain messages to the brain.
- Historically known to be highly addictive.
- Used and approved for acute post-operative pain or cancer/end of life care.



The Opioid Epidemic in Brevard County:

The Causes of the Opioid Crisis The Manufacturer Case

- Overstated benefits for chronic, long-term use. Promoted widespread use of opioids to treat common chronic pain conditions.
- Misrepresented risk of addiction through “key opinion leaders,” the creation of professional societies to advocate for the use of opioids, sponsoring scientific articles and medical conferences.
- The manufacturers’ conduct was designed to maximize profits.

The Opioid Epidemic in Brevard County:

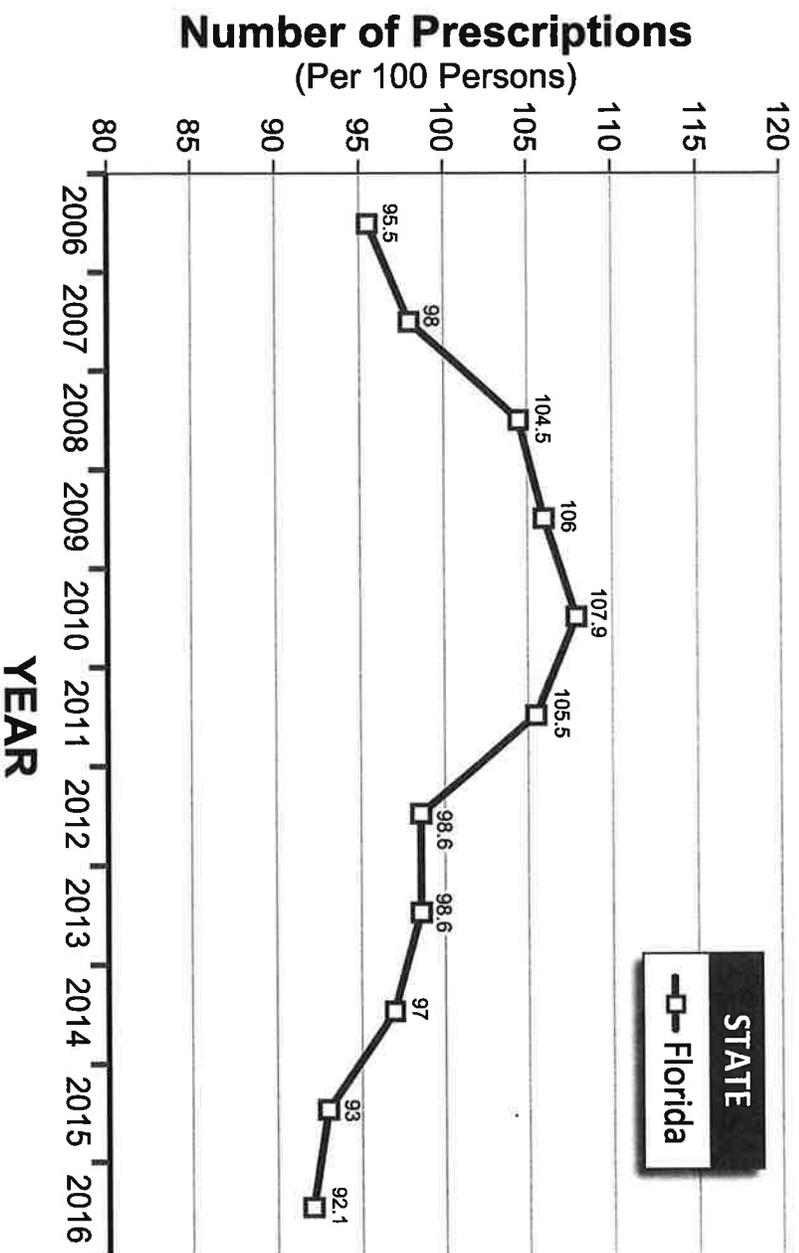
The Causes of the Opioid Crisis The Distributor Case

- Wholesale distributors of opioids are statutorily obligated to develop and maintain procedures to investigate and report drug diversion, which they have consistently failed to do.
- These distributors neglected their obligations to notify the U.S. Drug Enforcement Administration, as well as parallel state entities, regarding suspicious opioid purchases, including orders of unusual size, frequency and/or pattern.
- The distributors' conduct was designed to maximize profits.



The Opioid Epidemic in Brevard County:

The Causes of the Opioid Epidemic

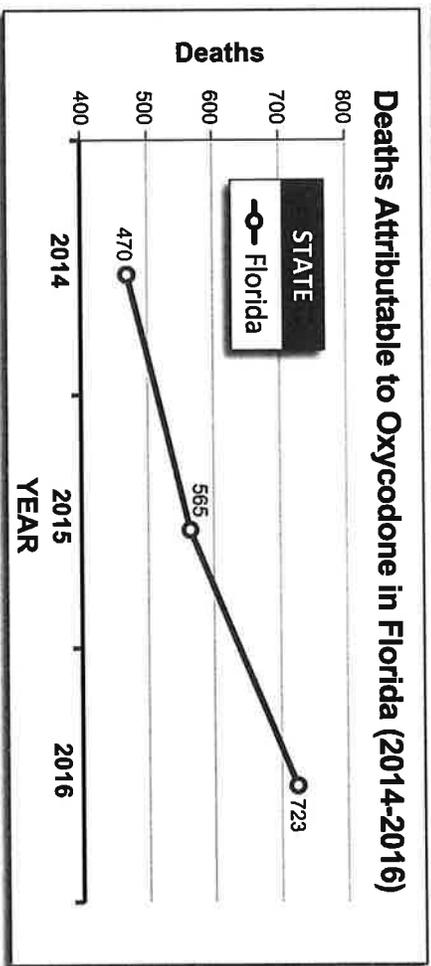
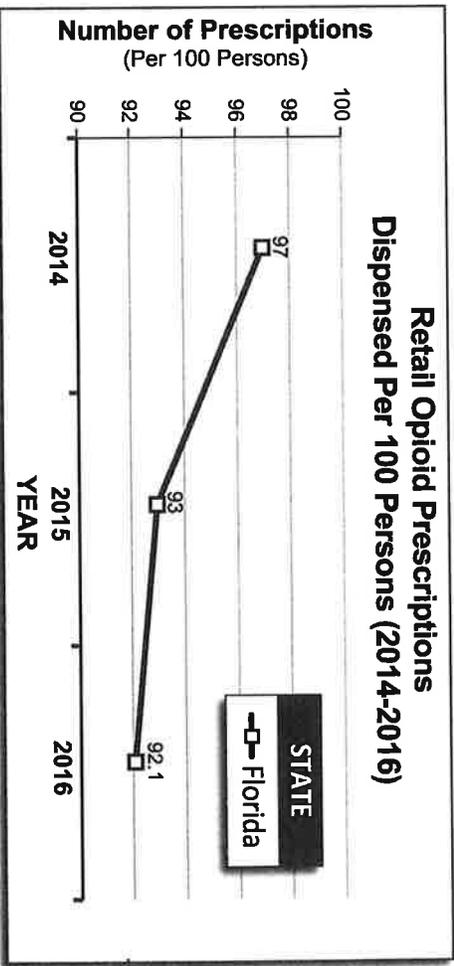




The Opioid Epidemic in Brevard County:



The Causes of the Opioid Epidemic





The Opioid Epidemic in Brevard County:



The Causes of the Opioid Epidemic

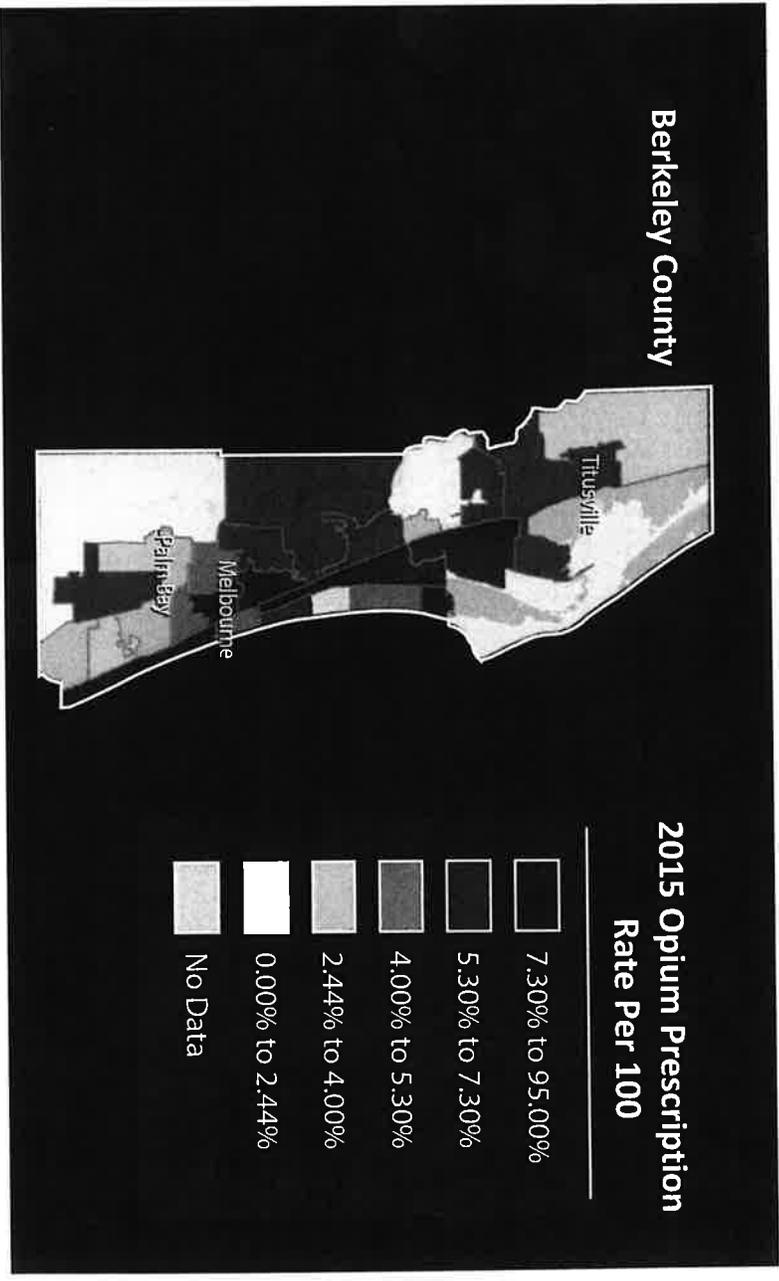
- Opioid prescriptions peaked in the early 2010's.
- Opioids flooding the market opened "Pandora's box," as those who became addicted to prescription opioids moved on to drugs like Heroin and Fentanyl.
- Of those who began abusing opioids in the 2000s, 75 percent reported that their first opioid was a prescription drug.



The Opioid Epidemic in Brevard County:



Medicare Part D Opioid Prescription Claims



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Source: <http://www.dhec.sc.gov/Health/Opioids/OpioidStatistics/>

**The Opioid
Epidemic in
Brevard County:
Legal Counsel**



The Applicant Team:

Our team consists of pre-eminent law firms with decades of experience litigating complex matters. It includes highly regarded firms well known for their work in complex commercial litigation, health care law, and the class action arena.

If selected as special counsel, the Applicant Team would operate as a unified law firm for purposes of this matter.

The Opioid Epidemic in Brevard County: Legal Counsel



The Applicant Team:

1) Schochor, Federico & Staton, P.A.

Jonathan Schochor, Phillip Federico, Brent Ceryes



Schochor, Federico & Staton consists of twelve attorneys who devote their practice to the investigation and litigation of complex civil matters involving medicine and the health care industry.



Since 1984, SFS has recovered over one billion dollars on behalf of its clients.

Recent Recoveries Include:

Led recovery of \$123 million in Doe v. Bradley (Superior Court of Delaware, New Castle Co., C.A. No. N10C-05-023 (JRS))

Led recovery of \$190 million in Doe v. The Johns Hopkins Hospital (Circuit Court for Baltimore City, Maryland, Case No.: 24-C-13-001041)



The Opioid Epidemic in Brevard County: Legal Counsel



The Applicant Team:

2) Spangenberg, Shibley & Liber

Peter Weinberger

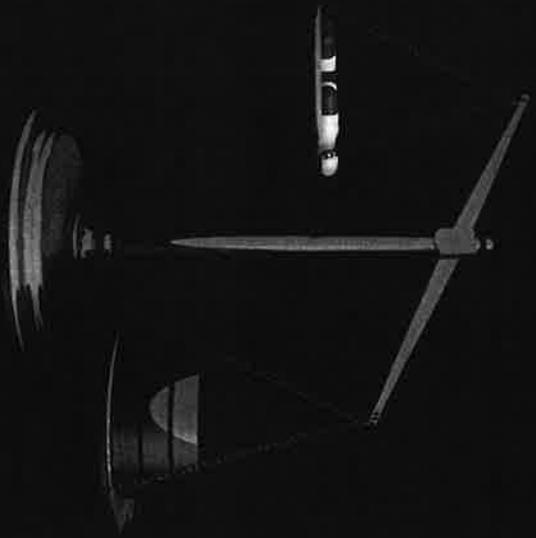


One of the three attorneys serving as liaison counsel in the MDL.

Experienced practitioner in the US District Court for the Northern District of Ohio, where the National Prescription Opiate Litigation MDL is currently pending.

Extensive leadership experience in other MDLs and product liability cases, having served on leadership committees in the Gadolinium Contrast Dyes Products Liability Litigation, MDL No. 1909 (N.D. Ohio), Teflon Product Liability Litigation, MDL No. 1733, and Benicar (Olmesartan) Products Liability Litigation, MDL No. 2606.

The Opioid Epidemic in Brevard County: Legal Counsel



The Applicant Team:

3) Pires Cooley

Alex Pires, Diane Cooley



The attorneys of Pires Cooley have significant experience in complex commercial litigation, including consumer fraud/unfair and deceptive acts and practice, and other types of complex litigation, including mass torts and class actions.



Represented the People of the State of California in a deceptive acts and practices case against the tobacco industry. Her firm's efforts described as "decisive" in California's recovery of over \$25 billion under the terms of the 1998 Master Settlement Agreement.

Ms. Cooley has represented thousands of claimants in products liability and mass disaster liability cases.

The Opioid Epidemic in Brevard County: Legal Counsel



The Applicant Team:

4) Romano Law Group

John Romano, Eric Romano, Todd Romano



John Romano, along with Jeffrey Liggio, successfully represented Palm Beach County in a lawsuit against Travelocity, Expedia, Priceline, Orbitz and other online travel companies for claims related to their failure to collect and pay tourist development taxes.



Have litigated a wide variety of drug and medical device cases against numerous manufacturers, distributors and retailers, including litigating numerous opioid-related death cases against multiple fentanyl manufacturers, including wrongful death fentanyl toxicity cases against Teva Pharmaceuticals USA, Inc. and Janssen Pharmaceuticals.



**The Opioid
Epidemic in
Brevard County:
Legal Counsel**



The Applicant Team:

**5) Fonvielle Lewis Messer &
McConnaughay**

*James E. Messer, Jr., C. David Fonvielle, Allen
McConnaughay*

Experienced Florida Trial Attorneys

Mr. Fonvielle was one of one of Florida's
"Dream Team" of lawyers chosen in 1995 to
represent the state of Florida in its historic and
successful litigation against "Big Tobacco."

Experience in a wide-variety of mass tort
cases.



**The Opioid
Epidemic in
Brevard County:
Legal Counsel**



The Applicant Team:

6) Douglas R. Beam P.A.

Doug Beam, Riley Beam

Extensive experience in complex civil litigation.
Past President of Brevard County Bar Association
Served as Prosecutor for Eighteenth Judicial
Circuit of Florida



The Opioid Epidemic in Brevard County: Legal Counsel

Consultants:

Doug Treasurer
Retired DEA Special Agent

Conducted complex domestic and international criminal investigations on major violators of the Controlled Substances Act and other federal law.

Twice promoted as the Interim Group Supervisor for the Charleston Resident Office.

Recipient of numerous awards for domestic and international drug investigations, most notably including the International Narcotics Enforcement Officers Association Award, the United States Attorney's Award for the District of South Carolina, and the DEA Administrator's Award for Outstanding Group Achievement.



**The Opioid
Epidemic in
Brevard County:
Legal Counsel**

Consultants:

**Caleb Alexander, MD**
Epidemiologist and Internist

Associate Professor of Epidemiology and Medicine at the Johns Hopkins Bloomberg School of Public Health.

Serves as founding co-Director of the Center for Drug Safety and Effectiveness.

Editor of the recent report from Hopkins Bloomberg and the Clinton Foundation entitled “The Opioid Epidemic: From Evidence to Impact.”

Recently spoke before Congressional Hearing on Combating the Opioid Crisis.



The Opioid Epidemic in Brevard County: Legal Counsel



Consultants:

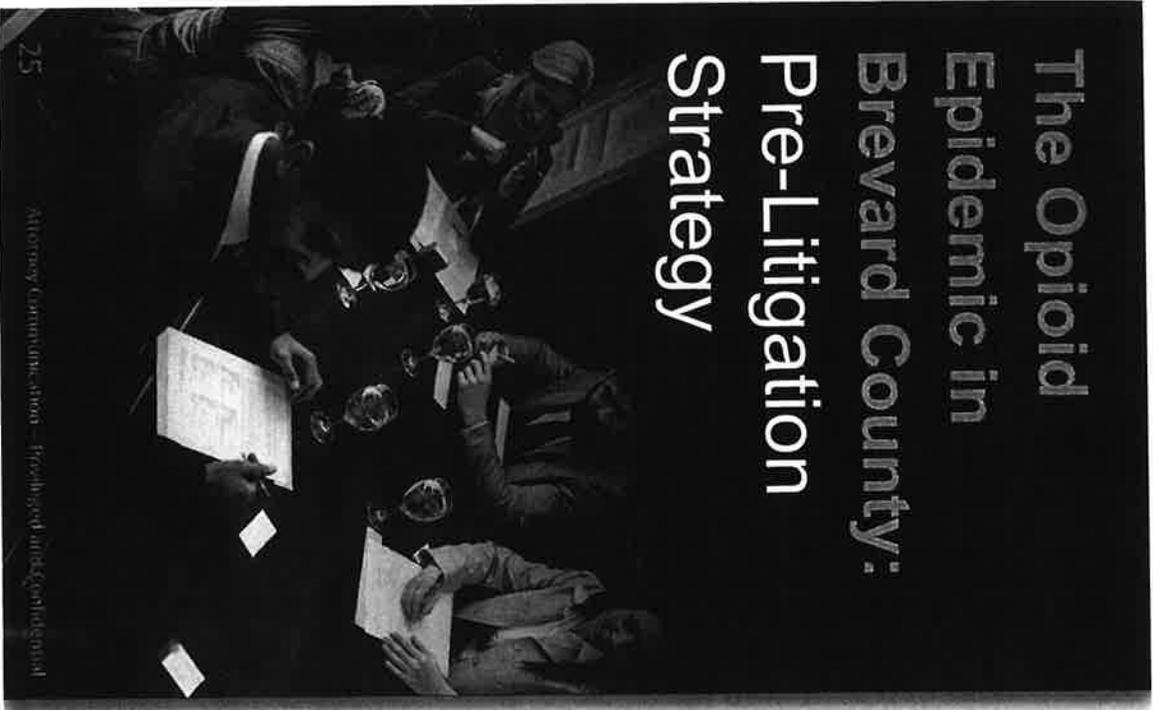


Chad Staller, JD, MBA, MAC, CVA
*Economist. President of the Center for
Forensic Economic Studies.*

Chad L. Staller is president of the Center for Forensic Economic Studies. He has extensive experience working with both plaintiff and defense counsel in a wide variety of civil matters, quantifying loss sustained by many types of plaintiffs. He serves on the faculty of Temple University's Beasley School of Law LL.M. in Trial Advocacy program and lectures regularly at Villanova University School of Law and Drexel's Earle Mack School of Law.

Mr. Staller is a Certified Trial Advocacy instructor through the National Institute of Trial Advocacy. He frequently presents seminars and speaks on forensic economic topics at law firms, accounting continuing education seminars, and before professional organizations.

The Opioid Epidemic in Brevard County: Pre-Litigation Strategy



Strategy for Success Phase I Conduct Extensive Pre-filing Investigation

- Identify individual prescribers subjected to and influenced by opioid manufacturers' deceptive marketing.
- Identify local marketing (branded & unbranded) directed at local doctors by manufacturers.
- Calculate County expenditures on opioids by manufacturer.
- Determine recoverable elements of County expenditures attributable to opioid crisis.
- Prepare to counter defendants' known arguments/tactics, such as motions to disqualify counsel, learned intermediary doctrine defenses, and other causation defenses.

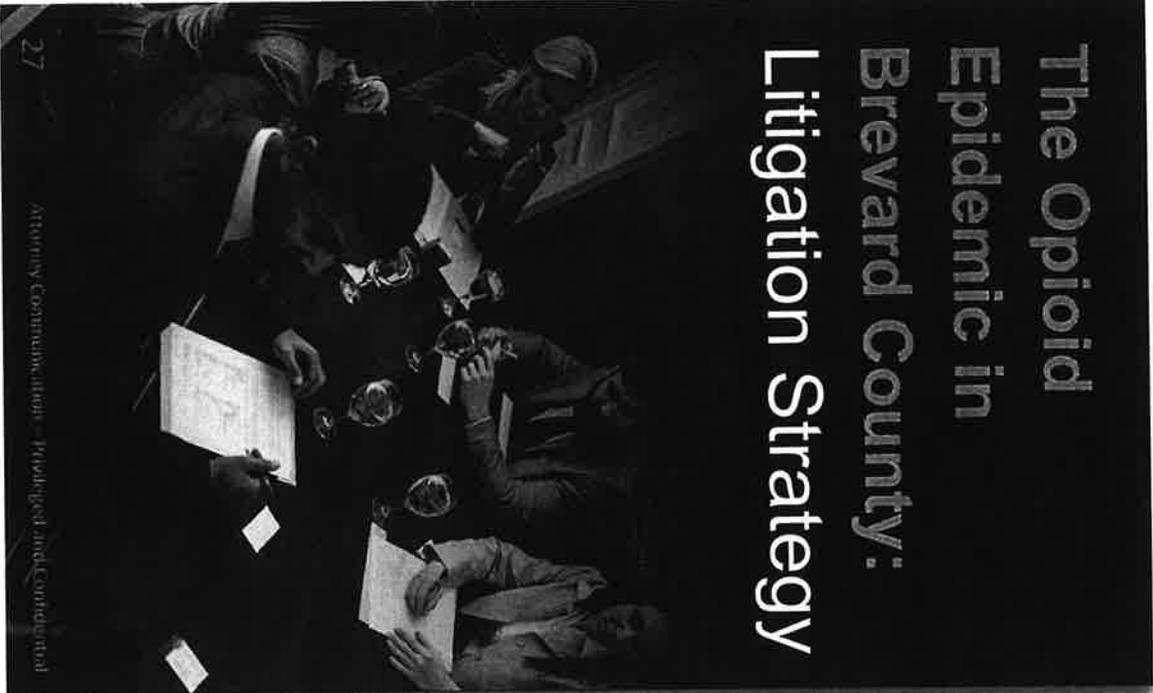


The Opioid Epidemic in Brevard County: Pre-Litigation Strategy



Strategy for Success Phase I Local Knowledge

- The applicant team has extensive relationships with physicians and medical institutions, including local and nationally-renowned experts in pain management and other medical specialties.
- These relationships will assist in pleading the conduct of the Defendants.



**The Opioid
Epidemic in
Brevard County:
Litigation Strategy**

**Strategy for Success Phase II
Prepare & File Streamlined Complaint,
Specific to Brevard County.**

- Select manufacturer defendant(s) based on data/investigation results. Forego smaller, statistically less significant defendants in favor of most culpable defendants.
- Plead with specificity the conduct of defendants.
- Plead only strongest causes of action to secure favorable ruling on motion to dismiss.
- Ensure that Brevard County is "out in front" of the opioid litigation and a leader in the State.



**The Opioid
Epidemic in
Brevard County:
Florida Statistics**



**Branded Opioid Manufacturers
Receiving Highest Levels of Florida
Medicaid Payments 2012-2016***



**Purdue Pharma:
\$12,051,046.22**



**Janssen:
\$4,915,557.30**

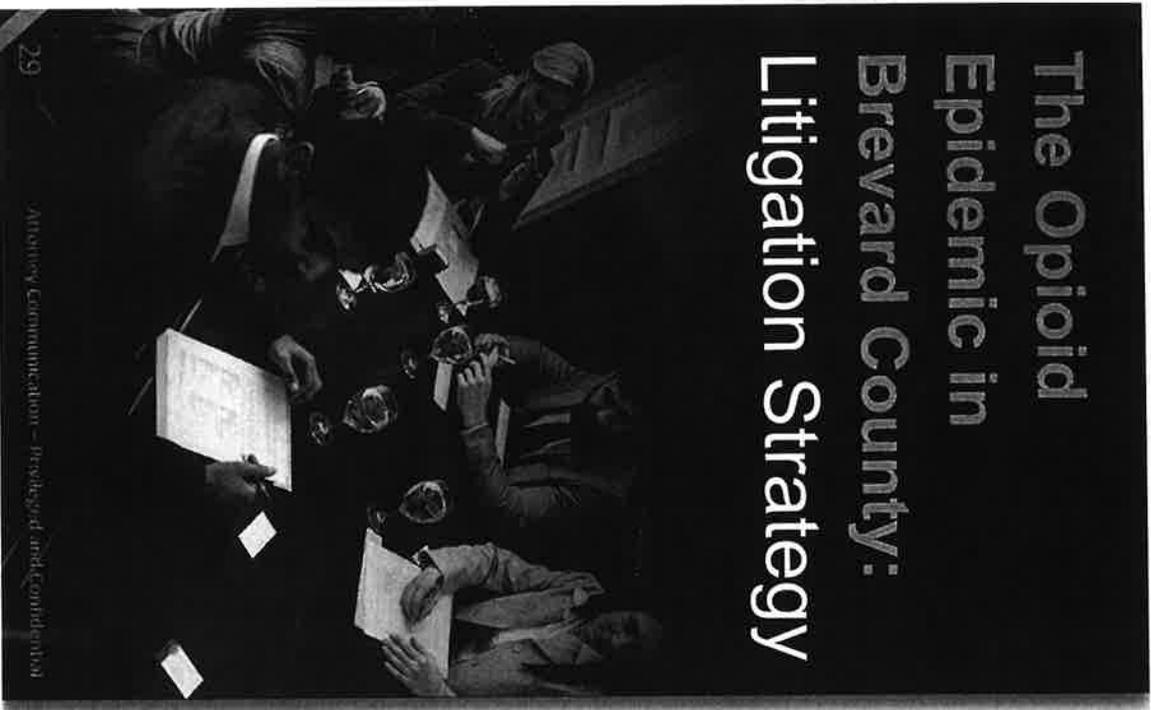


**Endo:
\$936,006.96**

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* Based on publicly accessible data from Medicaid

The Opioid Epidemic in Brevard County: Litigation Strategy



Strategy for Success Phase II

- File in State Court and avoid MDL.
- MDL currently involves at least 115 lawsuits.
- Now pending in Northern District of Ohio.
- MDL consolidation was favored by manufacturer and distributor Defendants, due in part to increased convenience and manageability for these Defendants.
- Keeping case in Florida increases pressure on Defendants by:
 - Providing early trial date.
 - Expedited Discovery.
- Keeping matter before a Brevard County jury.

The Opioid Epidemic in Brevard County: Litigation Strategy

Strategy for Success Phase II

- Content of the Complaint, and selection of parties, designed to avoid removal to Federal Court.
- Selection of parties to potentially include:
 - Florida "Pill mill" physicians.
 - Florida Pain Management CLE Presenters and Manufacturers' Sales Representatives who knowingly disseminated false information regarding benefits and risks of opioids.
- Include "chain of culpability" for the opioid epidemic.
- Move expeditiously and seek early trial date.

The Opioid Epidemic in Brevard County: Litigation Strategy



- ## Causes of Action as to Manufacturers
- Florida Unfair or Deceptive Trade Practices Act
 - Public Nuisance
 - Fraud
 - Unjust Enrichment



The Opioid Epidemic in Brevard County: Litigation Strategy



Causes of Action as to Distributors

- Negligence/Negligence *Per Se*
- Public Nuisance

The Opioid Epidemic in Brevard County: Economic Damages



Measure of Economic Damages Direct (Marginal) Expenditures:

1. Facilities
 - a. Cost of Treatment for Jail Population.
 - b. Increases in incarcerations.
2. Judicial Administration
3. Labor
 - a. New Hires
 - b. Increased Overtime

The Opioid Epidemic in Brevard County: Economic Damages



Measure of Economic Damages Direct Expenditures Continued:

4. Costs associated with medical and drug benefits provided to Brevard County employees and retirees.
 - a. Medically Unnecessary medications
 - b. Costs associated with addiction treatment.
5. Increased services for abuse and neglect cases.
6. Police and EMS Expenditures
7. School System Damages

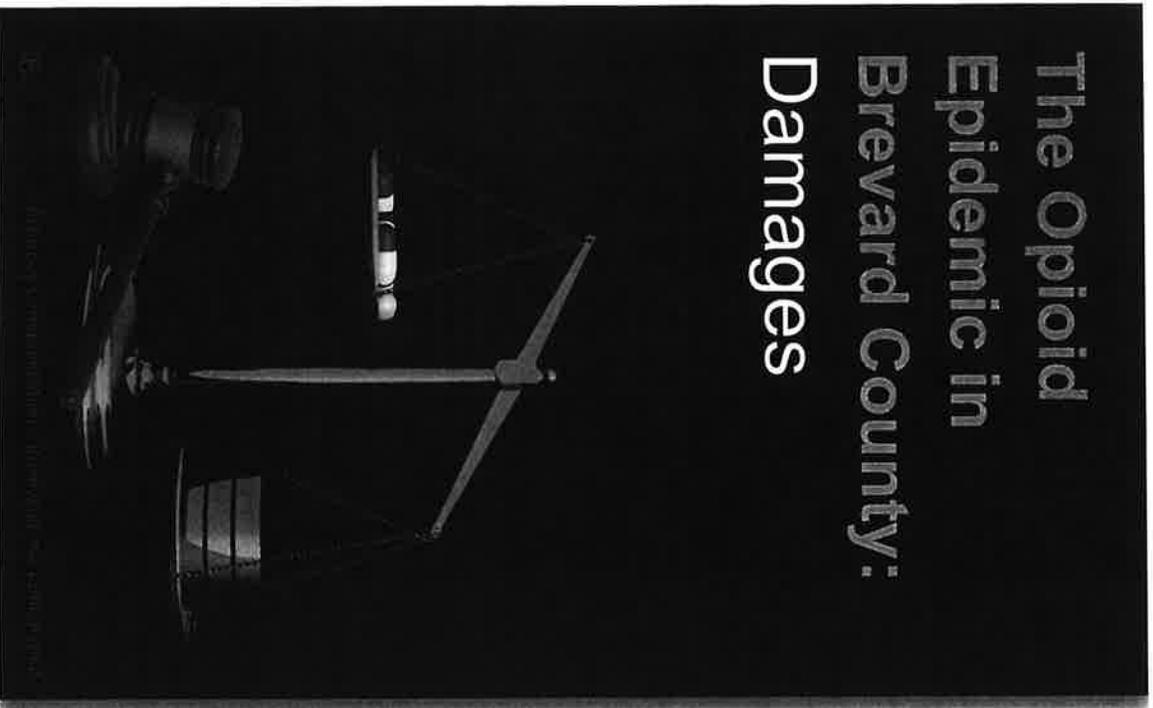
The Opioid Epidemic in Brevard County: Economic Damages



Measure of Economic Damages Direct Expenditures Continued:

8. Future damages for unmet needs:
 - a. Public information campaigns
 - b. Medication assisted treatment
 - c. Opioid Antagonists (e.g. nalaxone)
(prices rising with increased demand).
 - d. Other funds which may be of assistance to the County in remediating the effects of this epidemic.

The Opioid Epidemic in Brevard County: Damages



Fee Structure:

Prior to the Filing of the Complaint

- 10% of any recovery.

After Filing of Complaint, Prior to Trial

- 20% of any recovery.

After Trial Commences, before any Appeal

- 22.5% of any recovery.

After Appeal Commences

- 25% of any recovery.

Costs and expenses associated with this litigation will be paid by the Applicant Team, and reimbursed in full from any recovery, in addition to the contingent fee set forth above.

The Opioid Epidemic in Brevard County: Damages



Potential Risks:

- Low risk endeavor for Brevard County
- Contingent Fee for Counsel
- Costs covered by Plaintiffs' Counsel

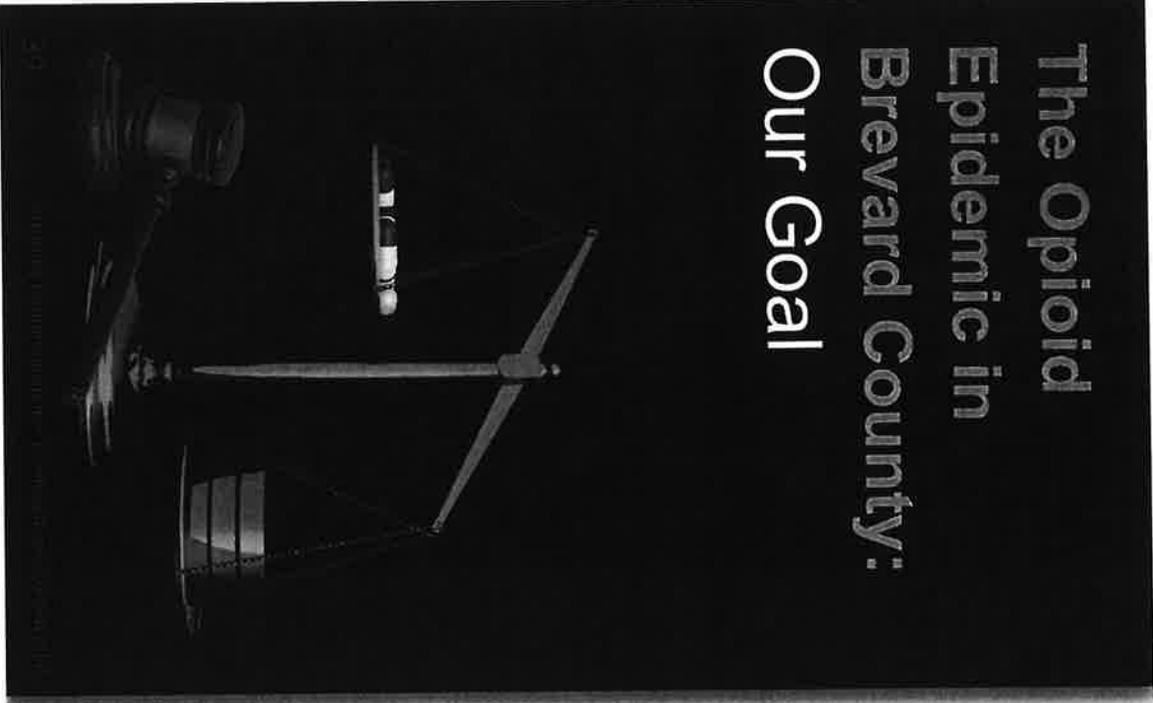
The Opioid Epidemic in Brevard County: Damages



Time is of the Essence:

- The National Landscape
 - The States (NAAG)
 - Counties Nationwide
 - Cities Nationwide
- Global Settlement
- The Tobacco Settlement
- The Race to Collect
- Be a Leader
 - Political Capital
 - Positive Economic Impact
- Contingency Fee
- Impact
 - Win/Win

**The Opioid
Epidemic in
Brevard County:
Our Goal**



Our Goal is to make certain that your county is adequately compensated for any and all losses related to the opioid epidemic.

Through this litigation it is our intent to equip Brevard County with the necessary resources to continue fighting the war on opioid addiction.