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Philly Litigator Rips Opioid Defense Attys At Conference

By Dan Packel

Law360, Philadelphia (March 16, 2018, 10:38 PM EDT) -- A veteran Philadelphia plaintiff's attorney who is representing the city in litigation against drugmakers over the opioid crisis suggested that attention should be paid to the drug manufacturers' lawyers, at a forum on legal responses to the crisis on Friday.

Speaking at the University of Pennsylvania Law School, Stephen Sheller of Sheller PC specifically called out former New York mayor and federal prosecutor Rudy Giuliani, whose consulting firm represented OxyContin maker Purdue Pharma LP during a criminal investigation in 2007. Sheller was one of several litigators and state prosecutors who spoke at the event.

Best known for his battles with Johnson & Johnson in the long-running fight over the company's antipsychotic medication Risperdal, Sheller identified attorneys as an overlooked target in the growing effort to impose accountability on those who enabled the opioid public health emergency.

"Originally, they would have gone to jail, the Sacklers," Sheller said of the family that owns Purdue. "So they hired the Giuliani firm, so they didn't go to jail."

"The law firms involved, that has to be looked at in the context of this whole opioid problem," he continued.

Sheller is one of a team of attorneys representing the Philadelphia mayor's and district attorney's offices in **two separate suits** against Purdue and others. But he was not the first lawyer at the event to place a bull's-eye on Purdue, which has been named in a growing number of civil suits brought by states and municipalities around the country.

Bridget Brennan, a special narcotics prosecutor for New York City, noted the extreme difficulties in again bringing criminal charges against the company, pointing to the \$637 million fine Purdue already paid in a 2007 misbranding case and statute-of-limitations issues.

But Brennan said she would be thrilled if she, or others, could come up with a sound legal theory to hold manufacturers criminally liable. Brennan pointed to a landmark criminal prosecution she brought against a doctor who ran a "pill mill" out of his Queens office. She said an appeals court in December upheld two manslaughter convictions in the case.

"Our manslaughter case in New York City was the first of its kind, and it created really good law," she said.

Also on hand were attorneys general from both Delaware and Georgia. Delaware Attorney General Matthew Denn noted that his state had also launched a civil suit against opioid manufacturers. Georgia Attorney General Chris Carr, meanwhile, praised President Donald Trump's recent pronouncements — which have included bombastic comments about the death penalty for drug dealers — for attracting attention to the issue.

“When a president — this president or any president — brings an issue to the forefront, it’s a good thing. And I want to commend the administration for how often they have focused on the issue,” he said. “Now, the comment about the death penalty, be that as it may, I do think it shows an understanding of the frustration and passion I hear and Matt hears around this issue.”

Conference organizer Claire Finkelstein, the director of Penn’s Center for Ethics and the Rule of Law, noted that a number of the drug companies named as defendants in opioid litigation declined invitations to attend the event, as did their defense attorneys.

--Editing by Janice Carter Brown.