

# **Justice for: Native American Tribes & Individuals Opioids, Addictions: Devastation to Native People Victims In Indian Country**

- Opioids / Co-Addictions  
Babies Born Dependent on Addictive Meds
- People Hooked by Prescriptions
- People Driven by Pain
- People Driven by Other Addictions  
Mothers, Sisters Fathers, Brothers, Even Grandmothers

**Opioids & Alcohol/ Meth---Dangerous Chemicals  
Do Not Belong in Sacred Places Or Sacred Bodies**

## **Help Is Needed! We Want This Solved!**

Opioid Justice Now: A Consortium of Lawyers Have Delivered for Native People

**“When you are in doubt, be still, and wait; when doubt no longer exists for you, then go forward with courage.”**

**OPIOID JUSTICE TEAM™**

**Join us: [www.opioidjusticeteam.com](http://www.opioidjusticeteam.com) or call 800-LAW-2999**

**The Lawyers At OpioidJusticeNow.com are committed to a Real Solution**

Opioid Justice will deploy a full range of Scientists, Doctors, Economic Analysts and Experts to determine the Impacts of Opioid Addiction on Native Communities at no cost to Native People.

**Opioid Justice has No Conflicts of Interest or Affiliation with any U. S. Federal or State Governments or Attorneys General**

- ✓ **Not a Tobacco Style Backroom Deal**
- ✓ **Not Money for Tax Relief & Politicians**

**Opioid Justice Now for Tribes:** In re Protection of Tribal Interests, In the Opioid Abuse & Addiction Crisis Litigation Against Pharmaceuticals Manufacturers and Distributors

We stand for recoveries built on two modes, discussed below:

<b>DAMAGES TO TRIBES AND INDEPENDENT TREATMENT FACILITIES</b>	<b>DAMAGES TO TRIBAL MEMBERS</b>
<p><b>ELEMENTS:</b>  <b>Costs for Chemically Dependent services for:</b></p> <ul style="list-style-type: none"> <li>• Public Safety</li> <li>• Public Health</li> <li>• Housing</li> <li>• Judicial Services</li> <li>• Prosecution in Court</li> <li>• Defense in Court</li> <li>• Corrections Services</li> <li>• Juvenile Services</li> <li>• Treatment</li> <li>• Prevention</li> <li>• Education</li> <li>• Lost Productivity</li> <li>• Part of General &amp; Administrative</li> </ul>	<p><b>ELEMENTS:</b>  <b>Medical Care for past &amp; future:</b></p> <ul style="list-style-type: none"> <li>• Babies &amp; Mothers</li> <li>• Other Addicted Persons: Opioids</li> <li>• Co-addicted Persons</li> <li>• Wrongful Death</li> <li>• Domestic Violence Victims</li> </ul> <p><b>Detoxification Care</b></p> <ul style="list-style-type: none"> <li>• Compensation for Personal Injuries</li> </ul> <p><b>Bodily Impairments</b></p> <ul style="list-style-type: none"> <li>• Brain Injuries</li> <li>• Psychiatric &amp; Psychological Injuries</li> <li>• Lost Earnings &amp; Earnings Capacity</li> <li>• Lost Ability to Function Normally</li> </ul>
<p><b>IN SOME INSTANCES:</b></p> <ul style="list-style-type: none"> <li>• Past Interest</li> <li>• Punitive Damages o Attorneys’ Fees</li> </ul>	<p><b>IN SOME INSTANCES:</b></p> <ul style="list-style-type: none"> <li>• Past Interest</li> <li>• Punitive Damages o Attorneys’ Fees</li> </ul>
<p><b>PROOF:</b></p> <ul style="list-style-type: none"> <li>• Tribal Records</li> <li>• Tribal Contracts</li> <li>• Personal Interviews</li> <li>• Forensic Analysis</li> </ul>	<p><b>PROOF:</b></p> <ul style="list-style-type: none"> <li>• Life History</li> <li>• Med Diagnoses Prognoses, Needs</li> <li>• Impact on Mortality</li> <li>• Impact on Supported Persons</li> </ul>

## **WHAT WILL WE DO?**

1. File your case to assure specific focus on YOUR ORGANIZATION, and to prevent loss of identity in a large group, while using togetherness as a strength.
2. Stay out of class actions.
3. Make every effort to keep the case in a nearby court, or get it remanded to a nearby court except in unique circumstances where census or political sentiments make this ill advised. We will try to stay out of Ohio federal actions.
4. Refuse any settlement that does not permit the Organization to control its own financial recovery for its own individual harms.
5. Resist any settlement that would assign control of compensatory funds to politically controlled agencies of government at the state or national level.

## **HOW WILL WE DO IT?**

1. Fiercely!
2. With the best experts, and the strongest support from the strongest research institutions possible.
3. With confidence that the battle will bring a victory, the fight should be fought settlement should not be an objective unless and until victory directs its course.
4. Never Surrender.
5. Live by this Motto: Death in Battle Far Exceeds Life in Shame.

## **III. OPIOIDS**

Many publications document the dramatic harm inflicted by opioids on Native Americans. The National Indian Health Board described the problem this way:

The opioid epidemic poses one of the most significant public health threats in recent history and is particularly virulent in American Indian and Alaska Native communities. Addressing the opioid epidemic is a nationwide priority; however, access to critical opioid prevention and treatment dollars are not reaching many of the Tribal communities that are in serious need of these funds. American Indians and Alaska Natives (AI/AN) face opioid related fatalities at three times the rate for Blacks and Hispanic Whites.

The Centers for Disease Control and Prevention (CDC) further reported an opioid overdose rate of 8.4 per 100,000 for AI/ANs, second only to Whites.

As sovereigns, Tribal Nations are not systematically included within statewide public health initiatives such as the recent prevention and intervention efforts created through the new opioid crisis grants. Nevertheless, a national study looking at death certificate data reported that AI/AN experienced the highest prescription opioid death rate of any race from 1999-2009.

### **Policy Recommendations of NIHB – A Starting Place**

- Establish Tribally - specific funds for specific AI/AN communities.

Tribes were not included in the 2017 State Targeted Response to the Opioid Epidemic grants, forcing many Tribes to compete with state agencies and other Tribes for these critically needed dollars. Creating funding streams specific for Tribes eliminates this issue and streamlines access to these essential funds.

- Establish trauma-informed interventions for prevention.
- Recognize the top-level priority of Tribes to resolve this problem.
- Establish a Special Behavioral Health Program for Native Americans like the existing Special Diabetes Program.

Our Consortium's simple objective is to use the law and courts to make a difference. We have the strongest lawyers. We are called to serve those most harmed. Only strength can bend the arc of history toward justice.

## **IV. OVERVIEW OF THE LEGAL ISSUES/LITIGATION**

### **Compulsion to Sue**

It is now widely recognized that the executive and legislative branches of the federal government cannot remediate this crisis. The Civil litigation system must do so. The Federal Judge responsible for coordination of litigation, aggressively announced a desire to address and resolve the crisis. The total damages sustained by the Tribe in any year must be studied in detail and proven with reasonable precision though not mathematical certainty. Modeling damages based on specific experience and workload will be an essential part of the litigation. This modeling is conceptually, mathematically comparable to breaking out damages in other areas of mass tort law and damages with which the Consortium lawyers are familiar.

All lawyers of our Consortium are committed to using the litigation to resolve the crisis. Our objective is to use the legal proceedings to recover control of opiate medications and achieve the financial recovery from the manufacturers and distributors who allowed it to become a runaway, and to get the money to your hands, and not those of state or federal politicians.

### **Tribal Claims**

- Tribal claims seek compensation for a broad array of losses including:
- Police, Fire, Paramedic, Ambulance, Health and Law Department services and costs.
- Expenses incurred to care for inmates in Tribal incarceration centers, and to investigate crimes associated with opioid addiction.
- Housing damages, Social Services and Educational Costs.

### **Legal Theories**

- The litigation will likely pursue these most prominent legal theories of recovery:
- The Doctrine of Public Nuisance;  
Negligence including negligent failure to discharge specific federal statutory and regulatory responsibilities;
- Fraud and Misrepresentation;
- Violation of Consumer Protection Acts and Fair-Trade Practices Act;
- Racketeer Influenced & Corrupt Organization Acts claims;
- Unjust Enrichment.

The doctrine of public nuisance is the principle cause of concern among manufacturers and distributors at this early stage. "Public nuisance" is an offense against the state or its political subdivisions, and is subject to abatement, remediation, or prosecution by the affected governmental agency; it consists of conduct or

omissions which offend, interfere with, or cause damage to the public in the exercise of rights common to all, in a manner such as to offend public morals, interfere with use by the public of a public place, or endanger or injure the property, health, safety, or comfort of a considerable number of persons. The distributors who are targeted are at risk for their failure to design and operate a protocol to expose and report suspicious orders of controlled substances, including opioids, as required by 21 CFR § 1301.74 (b) and parallel state laws in several states.

Generally, it will be alleged that offending conduct interferes with rights commons to the general public in a Tribe, and interference with and jeopardizing of, judicial costs, public safety costs, incarceration costs, and treatment for those forced into to Tribal care by their circumstances. Your Complaint is likely to allege, in connection with public nuisance theory of recovery, that distributors acting on behalf of manufacturers, or manufacturers who engaged in self-distribution of products, were responsible for compliance with 21 CFR § 1301.74 (b) and failed to comply. Negligence and other theories are expected to be asserted in your Complaint as well.

### **A. Damages**

No estimate of damages has yet been made for your Tribe. However, interviews of law enforcement personnel have begun with others, and damages are likely to include enhanced costs for Tribal fire, ambulance, police, health and legal services. General "ballpark" estimates have placed the annual costs in these budget sectors at as much as 25% - 33% of total costs in some governments. Interviews of your key personnel, and study of your official data will be required. In recent days, other Tribes have filed or announced plans to file suit.

The Native American Tribe's experience with the Tobacco Settlements is especially important for Tribal governments to note. There, the Tribes got nothing or nearly so. Virtually all money recovered went to State politicians. Much was used for tax cuts and budget deficits. More egregiously, recent orders emanating from the tobacco settlements, have continued to steer settlement funds and relief away from Native-owned businesses. This must not happen again! But, many are headed in that direction. Not us!

Furthermore, the Federal Government has never been more lacking on fulfilling its Trust Responsibilities to Tribes, and major budgetary cuts are proposed by the U.S. Government to critical healthcare programs, despite the fact that the IHS Budget is only about 9% of the identified need. But, days ago, the U.S. Attorney General asked to be included in discussions to settle the Big Pharma wrongdoing. This redoubles the need for prompt action by the Tribe now.

### **B. Probable Defendants**

We have identified twenty-four (24) probable target defendants. They include drug manufacturers, distributions, pharmacy chains, and subsidiaries. Many of the companies operate in a corporate maze. We figured out who is who! We have not yet seen a suit that does so comprehensively. Ours will ... to the best of our ability.

## **V. PROGRAM ORGANIZATION AND MANAGEMENT: TRIBAL JUSTICE TEAM AND EXPERTS**

The Consortium is proposed to perform all work necessary for your claim and does not anticipate taking time away from the Office of Tribal Attorney. In fact, Our Opioid Justice Team is the only group taking cases in the Country, with a team of experts sufficient to single-handedly prove your case, allowing the Tribal Attorney office to focus on its undoubtedly busy internal docket. We have arrangements in place with Doctors, Nurses, other care providers, accounting and Third-Party Administrators of health finance companies.

The Group has engaged the services of a third-party administrator (TPA) that is assisting with data collecting (data mining); calculating past, present and future damages, including modeling and program development; and organizing the information to assist both you and the justice system to understand precisely the costs necessary to compensate your damages.

Our work will create jobs among your people. We will ensure that Native Americans are assisting Native Americans to assemble and understand your data.

Most importantly, the TPA has agreed to safeguard and protect all data received for the benefit of the Opioid Justice Team clients. A designated lawyer will protect all privileged information in accordance with his duties as a fiduciary and a licensed lawyer. Opioid Justice Team clients will be protected from all requests for discovery in an attempt to bypass attorney-client and attorney work product privilege.

You will have the benefit of service by the battle-proven lawyers of our Opioid Justice Team, and support personnel. We want your voice and your input into the recovery program for other effected Native American groups as well. Together, in solidarity, is how Organizations need to stand with the population it serves, and how great healing will begin.

The logo for the Opioid Justice Team features a dark blue, stylized roof-like shape above the text "OPIOID JUSTICE TEAM™". The text is in a serif font and is underlined with two horizontal lines.

## OPIOID JUSTICE TEAM™

*Our team of renowned experts is already building a damage model that will capture the extent of the economic loss suffered by Americans, their families, businesses and communities because of the additional unrecompensed expenses and stress on resources that have come with the Opioid Crisis. Our experts are also developing proposals to bring communities the resources they need to fight the causes of the Opioid Crisis and deal with its effects.*

**Join us: [www.opioidjusticeteam.com](http://www.opioidjusticeteam.com) or call 800-LAW-2999**