

# There Were “Grand-Canyon-Sized Holes” in Walgreens’ Duty to Control Flood of Opiates

*Attorney Peter Mougey Described a Profit Obsession That Trumped Monitoring, Investigating, and Reporting Suspicious Opioid Orders in San Francisco.*

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“

When you have a license from the federal government to do anything...especially with highly addictive drugs, that's a privilege, and with that comes responsibility. It's self-regulation.”

*Peter Mougey, Attorney, Levin Papantonio Rafferty*

—Tuesday, July 12, 2022, marked the start of the delivery of closing arguments in the case against Walgreens for its role in causing an opioid epidemic in San Francisco. Plaintiffs’ attorneys painted the picture of how the opioid epidemic looks in today’s San Francisco, explained how Walgreens’ conduct moved this crisis into a full-blown catastrophe, and detailed the multiple ways in which opioids have caused harm and triggered a public nuisance in the Bay Area.

All parties completed closing arguments last week after nearly three months of trial ([Case No. 18-cv-7591-CRB](#)), and [Levin Papantonio Rafferty](#) Attorney [Peter Mougey](#) said

he expects a ruling from Senior U.S. District Judge Charles Breyer within the next thirty-sixty days.

Mougey and co-trial counsel (Richard Heimann of Lieff Cabraser Heimann & Bernstein LLP, Jayne Conroy of Simmons Hanly Conroy LLC, and Aelish Baig of Robbins Geller Rudman & Dowd LLP) alongside the City Attorney David Chuin, have been trying the case against Walgreens in the U.S. District Court Northern District of California. LPR Attorneys Jeff Gaddy, Page Poerschke, and Laura Dunning also played vital roles.

“This case has required the utmost dedication, focus, and teamwork from hundreds of lawyers across multiple firms,” Mougey said. “It is a testament to the importance of this litigation that everyone came together so effectively in the spirit of justice.”

Angel of Mercy, Angel of Death

Opioid Use Disorder (OUD) has generated a wave of tragedy and pain throughout San

Francisco—and the entire country. It is an addiction that preys on people of all ages, lifestyles, and physical characteristics. It brings lifelong affliction, and it knows no boundaries.

Plaintiffs' witnesses in the San Francisco trial had referred to the opioid epidemic as catastrophic—and its genesis was Walgreens' relentless pressure on distribution centers and pharmacies to fill opioid prescriptions.

Mougey described how Walgreens' employees have tried to package the opioid epidemic as a recent problem, when in fact, a 2001 Congressional investigation came about to center on the rising problems stemming from the use of oxycontin. In his closing argument,

Mougey quoted the subcommittee's words describing oxycontin: "[It is] an angel of mercy for some, but for others, it is the angel of death. To those who suffer chronic pain, it brings welcome relief, but for those who abuse this highly addictive drug it can bring even greater suffering."

#### Addictions Fueled by Walgreens' Mission to "Fill, Fill, Fill"

Mougey then presented a series of internal documents from Walgreens providing proof of the pharma company's focus on profit and the bottom line, along with it devoting an alarming lack of resources to controlling "the flood of opiates into our communities—until they were made to by the Drug Enforcement Agency."

The DEA required Walgreens to design and operate a system that would monitor opioid prescription orders, then inform the field office division of suspicious orders upon their discovery and complete an independent analysis prior to the orders becoming shipments. For years, however, Walgreens' reports tracked not suspicious orders, but rather shipments of suspicious orders to their pharmacies, Mougey explained. "Those orders reported to the DEA were filled, out the door, already gone," the attorney said.

"In its role as both distributor and dispenser of opioids, Walgreens was in a unique position to control the amount of pills in this community," Mougey said. "As a distributor, in addition to reporting suspicious orders, Walgreens has a statutory responsibility to exercise due diligence to



Co-Lead Counsel for the San Francisco Opioid Trial (pictured left to right): Jayne Conroy of Simmons Hanly Conroy LLC, Richard Heimann of Lieff Cabraser Heimann & Bernstein LLP, Peter Mougey of Levin Papantonio Rafferty, and Aelish Baig of Robbins Geller

avoid filling suspicious orders,” he added.

### Tunnel-Vision Focus on Profits

Mougey further elaborated on the Walgreens’ principles that trumped public safety. According to the attorney, the corporation invested millions of dollars to drive efficiency.

“Compare the amount of resources Walgreens devoted to profits, efficiency, and the bottom line to what they paid to the growing epidemic program in the U.S., starting with the Congressional hearing, all the way to today,” Mougey explained.

Mougey cited data from multiple internal audits of Walgreens’ controlled substance distribution centers in the San Francisco area, which showed a repeated, consistent, and very real problem—that there was no monitoring process in place to stop suspicious opioid orders.

Other internal documents showed that Walgreens knew it was failing to comply with DEA requirements. The LPR attorney underscored how Walgreens knew of these problems for 10 years and never took the time to execute due diligence to monitor or investigate shipments before they went out the door.

“When you have a license from the federal government to do anything...especially with highly addictive drugs, that’s a privilege, and with that comes responsibility. It’s self-regulation,” Mougey remarked.

“This is a Grand Canyon-size hole in what their responsibilities were,” he added.

### Opioid Case Settlements Continue

Tuesday, July 12th, saw additional movement in the efforts to hold corporations accountable for the opioid crisis. Reuters reported that Teva Pharmaceutical Industries (TEVA.TA) and AbbVie's Allergan unit reached a \$58 million settlement with the city of San Francisco. The settlement agreement transpired before Walgreens’ attorneys were set to give their closing arguments on Wednesday, July 12, 2022.

In 2021, Levin Papantonio attorneys and a coalition of state attorneys general announced a \$26 billion national settlement with drugmaker Johnson & Johnson and the three largest distributors of opioid painkillers (AmerisourceBergen, Cardinal Health, and McKesson). The announcement marked a victory achieved after four years of work on the case.

### About Levin, Papantonio, Rafferty

Levin, Papantonio, Rafferty has been representing the injured people of Pensacola and the world since 1955. The firm has gained national recognition as one of the most successful personal injury firms in the country and has been featured on CNN, NBC, ABC, CBS, and Fox, as well as

The Wall Street Journal, The New York Times, Time Magazine, Forbes, and National Law Journal. The law firm's attorneys handle lawsuits throughout the country involving prescription drugs, medical devices, medical malpractice, car accidents, and business litigation. Levin Papantonio Rafferty has earned more than \$4 billion in jury verdicts and settlements, litigating against some of the largest corporations in the world.

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