

No. 23-124

In the Supreme Court of the United States

WILLIAM K. HARRINGTON, UNITED STATES TRUSTEE,
REGION 2,
Petitioner,

v.

PURDUE PHARMA L.P., ET AL.,
Respondents.

*On Writ of Certiorari to the United States Court of Appeals
for the Second Circuit*

**BRIEF FOR AMICUS CURIAE FEDERATION OF
SOVEREIGN INDIGENOUS NATIONS IN
SUPPORT OF THE RESPONDENTS
SUPPORTING PETITIONER**

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INTEREST OF *AMICUS CURIAE*

Amicus curiae The Federation of Sovereign Indigenous Nations (“FSIN”) represents 74 First Nations in Saskatchewan, Canada. FSIN is committed to fostering the economic, educational and social growth of the people in these nations. To that end, it promotes education, health, and economic development among its members.

The nations of FSIN have been shattered by the opioid crisis, and by addiction to oxycodone in particular. Accordingly, *Amicus* here submits this brief to illustrate firsthand the ravages of Purdue Pharma’s product, from which the Sackler family has profited so immensely.¹

SUMMARY OF ARGUMENT

Opioid addiction has spread so rapidly through Canada that Prime Minister Justin Trudeau has called it a national emergency. But the First Nation tribes living inside Canada have been particularly stricken by the crisis, a disaster to their communities’ health, economy, and future. This anguish is described in detail below.

ARGUMENT

Ontario Regional Chief Glen Hare recalls a time just a few years ago when his community would have no murders at all, and deaths from drugs were scarce. But in the last five years, he has attended 25 funerals a year because of opioids - some of them for children as young as ten years old.

¹ Counsel for FSIN authored this brief in conjunction with FSIN and paid for the submission of this brief.

In one community about 800 miles north of Thunder Bay, Ontario, Chief Hare has seen two or three funerals a week. And now his community has five murder cases on its hands due to drug abuse.

“It’s not the liquor anymore – that’s like water now,” said Chief Hare, a member of the M’Chigeeng First Nation on Manitoulin Island. “Now it’s the opioids; it’s the pills.”

From shore to shore, the health crisis has hit First Nations communities across Canada all at once, fueled by the rapid spread of opioids into the drug supply.

Indeed, numbers from the First Nations Health Authority in British Columbia show that Indigenous people are five times more likely to experience an overdose and three times more likely to die than other residents.² In 2020, 254 First Nations people died due to toxic drugs, a 119 per cent increase from 2019 and the highest number of toxic drug deaths recorded for First Nations since 2016 when the province of BC first declared a public health emergency. First Nations people died at 5.3 times the rate of other BC residents in 2020, up from 3.9 times in 2019.³

Alberta has similarly grim numbers. There, First Nations people accounted for 22 percent of all opioid poisoning deaths, even while they represent only six per cent of the province’s population. That is an increase from 14 per

² First Nations Health Authority, First Nations Toxic Drug Deaths Doubled During the Pandemic in 2020, avail. at: <<https://www.fnha.ca/about/news-and-events/news/first-nations-toxic-drug-deaths-doubled-during-the-pandemic-in-2020>>

³ *Ibid.*

cent in 2016, while the rate decreased among non-First Nation people.⁴

Likewise, in Saskatchewan, deaths from drugs spiked from five in 2021 to 225 in the first part of 2023.⁵ And in 2021, the Ontario First Nations saw:

- 116 opioid-related deaths in Ontario First Nations (a 132% increase compared to a 68% increase in non-First Nations people);⁶

⁴ Alberta Opioid Response Surveillance Report: First Nations People in Alberta, avail. at <<https://open.alberta.ca/dataset/ef2d3579-499d-4fac-8cc5-94da088e3b73/resource/1d3c4477-7a5b-40a8-90f0-a802dbfd7748/download/health-alberta-opioid-response-surveillance-report-first-nations-people-2021-06.pdf>>

⁵ See Saskatchewan Coroners Service, Drug Toxicity Deaths, 2016 to 2023, avail. at <<https://publications.saskatchewan.ca/#/products/90505>>

⁶ Ontario Drug Policy Research Network, *Opioid Use, Related Harms, and Access to Treatment among First Nations in Ontario; and Impacts of the COVID-19 pandemic on opioid-related poisoning among First Nations in Ontario* (2022).

- 816 hospital visits for opioid-related poisonings among First Nations people (36% increase compared to 16% increase in non-First Nations people).⁷

But even these bleak numbers may be a gross underestimate of the reality of the crisis. By some estimates, because of racial misclassifications on death certificates, drug overdose rates may be as much as 35 percent higher than what is reported.⁸

As Purdue Canada, controlled by MNP Consulting, Ltd., which is in turn, controlled by the Sackler family, engaged in the same aggressive and deceptive tactics that caused Purdue U.S. to drug sales, addictions, and deaths in the United States to spike, addiction, overdose and death soared in Canada as well. Opioid deaths are now around 21 people per day, exceeding deaths from car accidents.⁹ In 2016, over 20 million prescriptions for opioids were dispensed in Canada, or one prescription for every adult.¹⁰ That makes Canada the second-largest consumer of prescription opioids in the world, after the USA. The

⁷ *Ibid.*

⁸ Mack KA, Jones CM, Ballesteros MF. Illicit drug use, illicit drug use disorders, and drug overdose deaths in metropolitan and nonmetropolitan areas—United States. *Am J Transplant.* 2017;17:3241–3252. doi: 10.1111/ajt.14555.

⁹ Opioid- and Stimulant-related Harms in Canada (Sept. 2022), <https://bit.ly/3CVtYOL>.

¹⁰ Lisa Belzak and Jessica Halverson, Evidence synthesis - The Opioid Crisis in Canada: a National Perspective, *Health Promot Chronic Dis Prev Can.* 2018 Jun; 38(6): 224–233.

deadly result is predictable. For the first time in four decades, in 2019, life expectancy rates stopped increasing due to opioid-related overdose deaths.¹¹

The opioid crisis has also been particularly devastating for the native Canadian First Nations and Metis People. Across Canada, prescription opioid use appears to have been the early driver of the current crisis, but the illegal drug market has since become the main supplier.¹²

Opioid use is particularly rampant among First Nations teenagers. A few years ago, Mae Katts, a nurse-practitioner in Thunder Bay, began seeing students returning from their summer holidays agitated, anxious, and complaining of headaches and sore muscles, common symptoms of opioid withdrawal.¹³

As it turned out, many of these students admitted they were abusing prescription opioid drugs, especially oxycodone, a highly addictive painkiller that has been widely prescribed and heavily misused in Canada over the past decade.¹⁴

Surveying the remote First Nations communities, Ms. Katts informally found that “around 40% of Aboriginal

¹¹ Meghan Thumath, et al., , Overdose among mothers: The association between child removal and unintentional drug overdose in a longitudinal cohort of marginalised women in Canada, *Int. J. Drug Policy*, May 2022

¹² *Ibid.*

¹³ Paul Webster, Indigenous Canadians confront prescription opioid misuse, *The Lancet* (April 27, 2013)

¹⁴ *Ibid.*

teens in the school in Thunder Bay had opioid dependencies,” while the communities they came from had even higher rates.¹⁵ Even worse, a 2010 study by the Northern Ontario School of Medicine found that 17% of 482 pregnant Aboriginal women from northwestern Ontario misused prescription opioid drugs during pregnancy, with a substantial percentage of exposed newborns experiencing opioid withdrawal symptoms.¹⁶

Opioid addiction has also wrought immense damage to indigenous culture, as addicts care more about accessing the drugs than living in the communities, carrying on the culture and ancient practices, or simply caring for one another. This social erosion and isolation, in turn, creates a vicious cycle leading to deeper vulnerability to opioid addiction.¹⁷

Thus, ridding themselves of the rampant addiction to opioids is critical to the First Nations’ ability to thrive as independent, self-sustaining communities.

As Chief Bobby Cameron, head of FSIN, summed up the crisis:

“We are losing our First Nation people at an alarming rate. We are burying our young people far too early in

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Mack KA, Jones CM, Ballesteros MF, Illicit drug use, illicit drug use disorders, and drug overdose deaths in metropolitan and non-metropolitan areas—United States. *Am J Transplant.* 2017;17:3241–3252. doi: 10.1111/ajt.14555.

their lives. It's going to take all authorities involved to resolve this crisis.”

CONCLUSION

Purdue Pharma, L.P. and the Sackler family have wrought a devastating trail of opioid destruction among the First Nations, hitting the people in the FSIN particularly hard, in ways that will be difficult to repair.

Respectfully submitted,

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