Opioid Litigation Proposal for South Carolina
The Opioid Epidemic in South Carolina

An overview of the current opiate crisis, it’s relationship to pharmaceutical company practices and the strategic plan for a successful resolution.
Current State of Crisis in South Carolina

- South Carolina’s rate of opioid prescriptions ranked 11th in the United States with 101.8 prescriptions per 100 persons.¹

- Costs attributed to opioid abuse are estimated to have totaled over $323 million in a single year, totaling $67 per capita, or 1.3% of the total health care costs in the state.²

¹. https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6326a2.htm (2012)
². Health Care Costs from Opioid Abuse: A State by State Analysis, Matrix Global Advisors, LLC, April 2015
The Opioid Epidemic in South Carolina: Current Statistics

Current State of Crisis in South Carolina

- Opioid related deaths in South Carolina have increased year after year.

- Deaths from heroin and fentanyl continue to surge as opioid prescriptions taper, as those on prescription opioids move to other opioid drugs.

- Opioid related deaths increased in South Carolina from 2015 to 2016 by 27.3 percent.

The Opioid Epidemic in South Carolina: Current Statistics

Deaths Due to Opioid Overdose in South Carolina by County of Occurrence, 2016

Source: http://www.dhec.sc.gov/Health/Opioids/OpioidStatistics/
The Opioid Epidemic in South Carolina: Current Statistics

Neonatal Abstinence Syndrome Rate Per 1,000 Births by South Carolina County, 2006 - 2014

NAS Rate Per 1,000 Births

- 0.00 – 1.99
- 2.00 – 2.99
- 3.00 – 3.99
- 4.00 – 4.99
- >5.00

Source: South Carolina Office of Research and Statistics
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 South Carolina

The Causes of the Opioid Crisis

The Manufacturer Case

- Appropriate use of opioids should be limited to acute or breakthrough cancer related pain.

- 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.

- Overstated benefits for chronic, long-term use. Promoted widespread use of opioids to treat common chronic pain conditions.

- The manufacturers’ conduct was designed to maximize profits.
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 usual size, frequency and/or pattern.

The distributors’ conduct was designed to maximize profits.
The Opioid Epidemic in South Carolina:
Current Statistics

Retail Opioid Prescriptions Dispensed Per 100 Persons

![Graph showing the number of retail opioid prescriptions dispensed per 100 persons in South Carolina over the years from 2006 to 2016. The number of prescriptions initially increases, peaks in 2011, and then decreases over the years, stabilizing around 2016.]
The Opioid Epidemic in South Carolina: Current Statistics

Deaths from Opioid Abuse in South Carolina (2014-2016)
Retail Opioid Prescription Relationship to Opioid Related Deaths

• Retail Opioid Prescriptions Peaked in 2012.

• 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.¹

The Opioid Epidemic in South Carolina: Current Statistics

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

- Purdue Pharma: $8,738,118.02
- Janssen: $1,070,074.02
- Endo: $907,238.50

* Based on publicly accessible data from Medicaid
The Opioid Epidemic in South Carolina: 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 South Carolina: Damages

Measure of Economic Damages

Direct Expenditures Continued:

4. Costs associated with medical and drug benefits provided to South Carolina employees and retirees.
   a. Medically Unnecessary medications

5. Increased services for abuse and neglect cases.

6. Police and EMS Expenditures

7. School System 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 state in remediating the effects of this epidemic.
Our Goal is to make certain that any county is adequately compensated for any and all losses related to the opioid epidemic.

Through this litigation it is our intent to equip your county with the necessary resources to continue fighting the war on opioid addition.
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 Applicant Team:

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

Jonathan Schochor, Philip 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 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.
Billy Walker is one of the most experienced trial attorneys in South Carolina. A lawyer since 1973, Billy Walker has represented clients in well over 200 jury trials. He has considerable experience in all phases of complex personal injury litigation including burn trauma and electrical injury cases, construction litigation, products liability, various types of wrongful death claims, and serious motor vehicle personal injury cases. His practice is now largely limited to complex cases involving burn injuries. He has personally litigated cases in several states, including South Carolina, North Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, California, New York, Pennsylvania, and Wisconsin.

Billy was the recipient of the Southern Trial Lawyers Association “Tommy Malone Great American Eagle Award” at their meeting in February, 2009. This award recognizes a single lawyer, “Who has a calling to help others and is a powerful example of the bold pursuit of excellence and justice. Such an individual is one who inspires others and is a living symbol of Integrity, Strength, Bravery, Justice Freedom, Pride, Devotion, Excellence, and Friendship and to many a Hero.”

Billy is a frequent lecturer on various legal topics and issues at seminars and conventions across the country where he is invited to present writings, instructive analysis, and recommendations on important legal issues and trial tactics.
The Applicant Team:

4) 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 Applicant Team:**

5) **Doug Treasurer**  
*Attorney and retired DEA Special Agent*

Full career of conducting opioid and other type drug investigations. Supervisory experience with the DEA Charleston Resident Office. Well versed in drug enforcement policy and procedure.

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 Applicant Team:

6) Johnson, Toal & Battiste, P.A.

Luther Battiste III, Founding Shareholder

Luther has served as president of the Columbia Lawyers Association, the Richland County Bar, Association, the South Carolina Trial Lawyers Association, and The Southeastern Region of the American Board of Trial Advocates (SEABOTA).
The Opioid Epidemic in South Carolina: Legal Counsel

Caleb Alexander, MD
Epidemiologist and Internist

Consultants:

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 Combatting the Opioid Crisis.
The Opioid Epidemic in South Carolina: Legal Counsel

Chad Staller, JD, MBA, MAC, CVA

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.