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The Justice Department's opioid lawsuit against Walmart is pure monkey business

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As the epidemic of opioid abuse gets steadily worse, the federal government continues to waste its time blaming Walmart rather than the doctors, black marketeers, and users who are actually responsible.

Now, a host of business groups are trying to redirect the feds, and rightly so.

Health experts said this week they expect to find that at least a 27% increase in fatal opioid overdoses occurred in 2020 once all the numbers are in, while Washington, D.C., and Virginia already have shown nearly 50% hikes. The problem is very real. The Justice Department, though, is attacking one of the only innocent parties in the whole supply chain. It is suing Walmart for filling prescriptions from fully licensed doctors, as if the retail giant is responsible for errors by doctors or misuse by patients.

What's next? Suing convenience store chains for *legally* selling cigarettes? To blame the stores when smokers get lung cancer? Suing ski shops because people get hurt on the slopes?

This newspaper editorialized against the Justice Department's lawsuit back in February, noting that most state laws actually obligate pharmacists, on pain of sanction, to fulfill prescriptions from duly certified doctors. To penalize pharmacists for doing a job they are legally required to do is unacceptable, both morally and legally.

That's why the U.S. Chamber of Commerce and a bevy of business groups and legal foundations in the past few weeks have filed friend-of-the-court briefs on Walmart's behalf. For example, to quote *Law360*, the National Association of Chain Drug Stores filed a brief on May 17 noting that if the Justice Department is successful, "pharmacists across the country will be forced to second-guess opioid prescriptions, despite their lack of training to supersede the medical judgment of the physicians who wrote the prescriptions."

One would hope the Justice Department could have the humility to reassess its civil suit and its threats of enforcement action against Walmart when it finds itself opposed by the Chamber of

Commerce, the Cato Institute, the Competitive Enterprise Institute, the Washington Legal Foundation, and the National Retail Federation while earning support from, well, almost no one.

This isn't really about Walmart. The legal ramifications for all sorts of businesses, including mom-and-pop operations, could be severe if the feds succeed against Walmart. Theoretically, the Justice Department's staff could make any entity in a supply chain liable for mistakes made by the discretionary decisions of any other entity in the chain.

As Mark Knopfler (formerly of Dire Straits) sang, this approach would be to "punish the monkey, and let the organ grinder go."

In sum, the department's position is bananas. It's time for the feds to swing in another direction.