

Pharma Exec's Drug Trafficking Trial Tests Bold Legal Theory

Media Mentions

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Bracewell's **Seth DuCharme** examined with *Law360* the drug trafficking trial of former pharmaceutical executive Laurence F. Doud in Manhattan federal court, which is expected to test whether sales of opioids to suspected pill mills can amount to narcotics conspiracy.

The government could face difficult hurdles at trial. Guilt in narcotics conspiracy cases is typically proven by commonsense circumstantial evidence that defendants knew they were involved in a drug dealing ring, including the use of secret communications and violence.

"The classic case under this law is like El Chapo, where you have all kinds of indicators of consciousness of guilt and knowledge and intent throughout," DuCharme said. "If someone says, 'Here, hold this machine gun while we carry these crates to this private plane on this remote airstrip,' you can't say, 'I didn't know they were selling drugs.'"

In the corporate context, the evidence is far less overt.

"The defense might argue that they may have been reckless or negligent or really bad at their jobs, but come on, a DEA raid, federal court and prison? This is not what we do with negligent executives," DuCharme predicted.

Manhattan prosecutors unveiled Doud's indictment with fanfare in April 2019, calling it a first-of-its-kind case that would take the fight against the opioid crisis to the companies that profited from it. Rochester Drug Co-Operative paid \$20 million and submitted to monitorship in a deal with the feds, and the company's former chief compliance officer, William Pietruszewski, pled guilty to narcotics and fraud conspiracy charges.

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